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# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 68

DATE: Wednesday, February 8th, 1989

BEFORE:

M. I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council  
(O.C. 2449/87) authorizing the  
Environmental Assessment Board to  
administer a funding program, in  
connection with the environmental  
assessment hearing with respect to the  
Timber Management Class  
Environmental Assessment, and to  
distribute funds to qualified  
participants.

-----  
Hearing held at the Ramada Prince Arthur  
Hotel, 17 North Cumberland St., Thunder  
Bay, Ontario, on Wednesday, February 8th,  
1989, commencing at 9:00 a.m.

-----  
VOLUME 68

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member



(i)

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH )	RESOURCES
MS. K. MURPHY )	
MS. Y. HERSCHER )	
MR. B. CAMPBELL )	MINISTRY OF ENVIRONMENT
MS. J. SEABORN )	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN )	ASSOCIATION and ONTARIO
MS. E. CRONK )	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY )	ASSOCIATION
MR. J. WILLIAMS, Q.C.	ONTARIO FEDERATION OF
MR. B. ARMSTRONG,	ANGLERS & HUNTERS
MR. D. HUNTER	NISHNAWBE-ASKI NATION and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK )	FORESTS FOR TOMORROW
MR. R. LINDGREN )	
MR. P. SANFORD )	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS)	LIMITED and SPRUCE FALLS
MR. D. WOOD )	POWER & PAPER COMPANY
MR. D. MacDONALD	ONTARIO FEDERATION OF LABOUR
MR. R. COTTON	BOISE CASCADE OF CANADA LTD.
MR. Y. GERVAIS)	ONTARIO TRAPPERS
MR. R. BARNES )	ASSOCIATION
MR. R. EDWARDS )	NORTHERN ONTARIO TOURIST
MR. B. MCKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD )	



(ii)

APPEARANCES: (Cont'd)

MR. J.W. ERICKSON, Q.C.)	RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK )	MUNICIPAL COMMITTEE
MR. D. SCOTT )	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL)	GREAT LAKES FOREST
MR. S.M. MAKUCH )	
MR. J. EBBS	ONTARIO PROFESSIONAL FORESTERS ASSOCIATION
MR. D. KING	VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. D. COLBORNE	GRAND COUNCIL TREATY #3
MR. R. REILLY	ONTARIO METIS & ABORIGINAL ASSOCIATION
MR. H. GRAHAM	CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN	DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC	MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES	ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY
MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON



(iii)

APPEARANCES: (Cont'd)

MR. C. BRUNETTA

NORTHWESTERN ONTARIO  
TOURISM ASSOCIATION



I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>WILLIAM JOHN STRAIGHT,</u>	
<u>R. DAVID SCOTT,</u>	
<u>PETER J. McNAMEE, Resumed</u>	10498
Continued Cross-Examination by Mr. Colborne	10498
Cross-Examination by Mr. Armstrong	10562



I N D E X      O F      E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
402	Indian Fishing Advisory Committee 10499 Report dated November, '88.	



1           ---Upon commencing at 9:00 a.m.

2           THE CHAIRMAN: Good morning. Please be  
3 seated.

4           Ladies and gentlemen, we have been  
5 advised by Mr. Hanna that the lawyer who will be  
6 substituting for Mr. Williams today will be slightly  
7 delayed in arriving this morning, so that I think we  
8 are going to schedule Ms. Seaborn for the Ministry of  
9 the Environment to follow Mr. Colborne and then we will  
10 pick up with the Federation's cross-examination  
11 immediately thereafter.

12           That, I understand, is okay with you, Ms.  
13 Seaborn?

14           MS. SEABORN: Yes, Mr. Chairman, that is  
15 fine.

16           I am attempting to locate Mr. Sutterfield  
17 because this came as a bit of a surprise to me this  
18 morning. I am hoping that he will be here by the time  
19 I begin. I am going to start off dealing with some  
20 interrogatories and I don't require his presence for  
21 that portion, but I may ask that we have the morning  
22 break when I finish that portion so that I can ensure  
23 that he's here.

24           THE CHAIRMAN: Very well.

25           Mr. Freidin, do you have anything?

1                           MR. FREIDIN: Yes. Perhaps while I am on  
2 my feet, I could just perhaps ask the Board -- or  
3 through the Board bring to the attention of parties who  
4 are going to be cross-examining in Panel 10 that, in  
5 accordance with your ruling, if the people are going to  
6 be referring to specific incidents where they will be  
7 dealing with, you know, specific companies or specific  
8 people, that they are to give notice in advance of so  
9 doing.

10                          THE CHAIRMAN: That was an earlier ruling  
11 of the Board and I think it will make for a more  
12 productive cross-examination. If the parties who wish  
13 to question witnesses in Panel 10 and wish to refer to  
14 specific incidents, do give advance notice so that the  
15 witnesses can prepare for those answers.

16                          Mr. Colborne, are you ready to go?

17                          MR. COLBORNE: Yes, I am.

18                          THE CHAIRMAN: Thank you.

19                          WILLIAM JOHN STRAIGHT,  
20                          R. DAVID SCOTT,  
                             PETER J. McNAMEE, Resumed

21                          CONTINUED CROSS-EXAMINATION BY MR. COLBORNE:

22                          Q. Mr. Straight, I want to refer you to  
23 another document. I am certain that you will have some  
24 familiarity with it, at least you will know what it is.  
25 (handed) Do you know what that is that I have just

1 given you?

2 MR. STRAIGHT: A. It is called The  
3 Indian Fishing Advisory Committee Report. I am aware  
4 of it.

5 Q. And that is a recent publication?

6 A. It says November, '88.

7 MR. COLBORNE: I want this marked as an  
8 exhibit, Mr. Chairman.

9 THE CHAIRMAN: It will be Exhibit 402.

10 ---EXHIBIT NO. 402: Indian Fishing Advisory Committee  
11 Report dated November, '88.

12 MR. COLBORNE: Q. Sir, would you agree  
13 with me that this is a document produced by a group  
14 representing the tourism industry, municipal councils,  
15 commercial fishing industry, recreationists, local  
16 Chambers of Commerce, trappers, miners, the forest  
17 industry and so on, not in a direct formal  
18 representative sense, but in an indirect sense  
19 concerning Indian fishing rights in northwestern  
20 Ontario?

21 MR. STRAIGHT: A. I am just -- this may  
22 come as a surprise to you, sir, but this is the first  
23 time I have actually seen this document.

24 Q. Very well.

25 A. But I do notice on page 5, quickly

1       going through it, that there is a list of people who it  
2       says were -- and names the representatives.

3                     Q. Very well. I was just about to refer  
4       you to that list. Page 5 and 6, on the face of it  
5       lists those individuals and their affiliations who  
6       contributed to this document. Is that your  
7       understanding of what you see before you?

8                     A. Having looked at it for all of a  
9       minute or so, it would appear to be the case.

10                  Q. Thank you. Now, sir, could you turn  
11       to page 14. I want to read two sentences, or perhaps  
12       it is just one long sentence, from this document and  
13       ask you a question having to do with forestry  
14       management.

15                  Beginning at the bottom of page 14, the  
16       end of the second last line:

17                  "In concrete terms, priority rights is  
18       such a key issue based upon the views of  
19       the committee members and strongly,  
20       almost passionately-held views of a  
21       number of presenters at public meetings.  
22       The government must recognize that it is  
23       being advised to never agree to any  
24       position that gives any group or  
25       organization priority fishing rights or

1 exclusive fishing rights."

2 First of all, perhaps I will just ask you, sir: Do you  
3 understand the general gist of what is being said  
4 there?

5                           A. I would like to read it again,  
6                           please.

7 Q. Go ahead.

8 A. Now, what was your question?

13                           A. I believe I understand the general  
14                           thrust of the statement.

15 Q. Yes. And then, sir, do you think  
16 that that general thrust is an expression of the  
17 authors of this document that there is a passionate  
18 feeling that the government should never agree - and I  
19 will just read words from the passage:

20                         "...never agree to any position which  
21                         gives any group or organization priority  
22                         fishing rights or exclusive fishing  
23                         rights."

A. And do I agree to what?

Q. Do you agree that that is the gist of

1 what this statement is expressing?

2 A. I think that, in those words, it is  
3 probably a fairly strong statement from that group.

4 Q. Very well. Now, the question that I  
5 wanted to ask you about in terms of your own opinion as  
6 the witness here on -- I believe you were qualified as  
7 an expert in resource management.

8 Do you believe that in northwestern  
9 Ontario, as part of the area of the undertaking, that  
10 the prevailing view is passionate, to use the word that  
11 appears here, passionate that no one get priority  
12 resource rights?

13 A. It defines priority or exclusive, as  
14 I read those particular words there.

15 Q. Okay. You can --

16 A. And my sense is that if - and you are  
17 asking for my opinion as one who is in northwestern  
18 Ontario - that particularly when you deal with  
19 exclusive rights, that there is a passionate local  
20 feeling.

21 Q. Do you know of any such passionate  
22 local feeling that relates to any rights other than  
23 Indian rights?

24 A. Any passionate local feelings? I  
25 have had the experience over the years to become

1 involved with many passionate local feelings. Whether  
2 we're -- not only on a personal level, but also...

3 Q. Well, sir, you don't have to gush  
4 over the floor.

5 A. I am aware, yes. Yes, I am.

6 Q. Right. Give me some examples then?

7 A. I was just going to do that, sir.

8 Q. Good.

9 A. The whole issue of local resident  
10 fishing use of areas relative to tourism interests has  
11 always as well been a very delicate issue. Similarly,  
12 the issues of increased economic costs and hardship to  
13 the timber industry as they may perceive modifications  
14 to their cutting as well can become quite heated and  
15 passionate at times.

16 Q. Passionate from the local residents?  
17 They are passionate about the economic problems of the  
18 employers?

19 A. I said the timber industry, dealing  
20 with the timber industry in terms of imposing  
21 additional modifications to normal operations, be it  
22 for whatever purpose, whether it is for moose habitat  
23 or fisheries habitat or whatever, quite often there are  
24 very strong feelings that are involved in that  
25 particular area as well.

1                   Q. Strong feelings by a wide portion of  
2                   the public, or strong feelings by individual  
3                   representatives of resource management companies?

4                   A. Well, it depends on how you interpret  
5                   wide feelings. We have had instances, for example,  
6                   where company positions with respect to a particular  
7                   issue within timber management may have a large number  
8                   of company employees come forward and voice concerns.  
9                   In the sense that you look at most rural communities or  
10                  small northern Ontario communities, you will find that  
11                  many of them are single industry based, and so the  
12                  concerns of industry are very much the concerns of the  
13                  people that live there as well.

14                  I could probably cite a few more examples  
15                  if you wanted me to continue.

16                  Q. Yes.

17                  A. But I think that would serve the  
18                  purpose.

19                  Q. No, go ahead.

20                  A. You will find in later -- cottaging  
21                  at some times can become very heated in certain  
22                  instances in terms of development.

23                  The whole business of resource  
24                  development relative to resource conservation or  
25                  environmental protection can become a very intense type

1 of situation in dealing with, again, small northern  
2 communities particularly - and I guess I am referring  
3 here primarily to places like Ear Falls and Ignace -  
4 where because of the loss of some of the industrial  
5 infrastructure, there is a strong feeling in the  
6 community for resource development to occur, if you  
7 will, to assist those communities and quite often the  
8 resource capacity is not there to do that. Those, as  
9 well, become very significant passionate issues, if you  
10 would.

11 Q. In any of those examples that you  
12 have given me, have hundreds of people shown up in  
13 small towns to express views that are reported in the  
14 press as blatantly racist about the problem or the  
15 question of whether priority fishing rights or  
16 exclusive rights should be given?

17 A. I have been at meetings, sir, where  
18 local anglers have turned out in the hundreds regarding  
19 conservation issues, regarding access to angling  
20 opportunities, yes.

21 Q. Tell me when and where?

22 A. Well, I am referring --

23 MR. FREIDIN: Mr. Chairman, I just have  
24 some concern. I mean, I think the witness can answer  
25 that question, but I don't see what the relevancy of

1           this line of questioning is.

2           THE CHAIRMAN: Well, we are embarked I  
3           think, Mr. Freidin, on a description of some of these  
4           passionately held views of both the public and  
5           industry, et cetera. This witness has given some  
6           examples and I think Mr. Colborne's questions follow on  
7           from that.

8           MR. FREIDIN: Well, I guess I could have  
9           gotten up at the beginning and objected to the first  
10          question on the same basis, I don't see the relevance  
11          of it. I don't like to interfere in the  
12          cross-examination. I still don't see the relevancy of  
13          the questions.

14          THE CHAIRMAN: Well, it seems to be  
15          connected certainly to the document that is before us  
16          and I think Mr. Colborne should be allowed an  
17          opportunity to develop his cross-examination.

18          MR. FREIDIN: Well, I didn't object to  
19          the document going in because I didn't know the purpose  
20          for which it was going in, it was identified by the  
21          witness and it went in.

22          I hear you, I just wanted to indicate  
23          what my views are on the document and the use of it.

24          MR. COLBORNE: Mr. Chairman, I am  
25          attempting to bring forward some evidence reflecting

1       the reality within which resource management  
2       decision-making or at least some of them -- the reality  
3       context is or may be, and my clients have a theory  
4       which is dramatically different from that of the  
5       Ministry of Natural Resources as to what that reality  
6       context is and we intend later to call evidence  
7       concerning that.

8                   And just because the witness, and Mr.  
9       Freidin on behalf of his client, have a fixed view --  
10      you know, Ford aren't the only people that make trucks;  
11      General Motors makes trucks, Dodge makes trucks and  
12      just because I am not espousing the view that Ford  
13      makes the best trucks here doesn't mean that there is  
14      anything improper in the question or irrelevant. There  
15      is a different view on these things.

16                  THE CHAIRMAN: Well, it is obvious to the  
17      Board that you represent a constituency that is going  
18      to be impacted by what is before the Board, the  
19      proposal, the planning mechanisms which are before the  
20      Board and so, obviously, your clients may have a  
21      different view as to what the nature of those impacts  
22      are and they may have a different view as to, as you  
23      express it, the reality of the situation out there.

24                  Mr. Freidin, I don't think the Board can  
25      really preclude this area of investigation,

1           particularly since Mr. Colborne has indicated that he  
2           intends to call evidence on these points in his side of  
3           the case. So I think this is perfectly legitimate  
4           cross-examination.

5                         If the witness can continue with the  
6           example that you were giving.

7                         MR. STRAIGHT: I believe the question  
8           was: Have I ever been at meetings where hundreds of  
9           local residents or hundreds of residents were in  
10           attendance expressing concerns about a resource  
11           management issue.

12                       And my response was that, yes,  
13           particularly in my previous capacity as a regional  
14           biologist in the northeastern region dealing with a  
15           situation where we were looking at potential avenues to  
16           deal with what we perceived may be an overfishing  
17           problem and dealing with alternatives to reduce angling  
18           seasons.

19                       When you get into those kinds -- there  
20           were - and, in doing that, we attended meetings in  
21           Sault Ste. Marie, Sudbury, as well as a number of the  
22           northern communities along the - the communities along  
23           the north channel. And at the Sault Ste. Marie  
24           meeting, in particular, there were close or in the  
25           order of a hundred or more people in attendance.

1                   But clearly, many of the issues that we  
2 quite often deal with may not by themselves attract  
3 hundreds of interested participants as you suggested  
4 there because most cases we are looking at local  
5 situations, but when you look at the degree of interest  
6 that is expressed relative to what residents in many  
7 ways perceive as their need - and I hate to use the  
8 word right because it seems to have a specific  
9 context - but I am sure most residents as well feel  
10 similar to that and strongly defend their position with  
11 regard to that.

12                  MR. COLBORNE: Q. Sir, would you agree  
13 with me or disagree with me when I make the following  
14 observation about this document that you have now  
15 before you: It is representative of the reality that  
16 Indian and white resource claims are often adversarial  
17 in northern Ontario?

18                  MR. STRAIGHT: A. I can't speak to the  
19 contents of the document, sir. It is not mine; I have  
20 not read it.

21                  Q. Let me revise the question then to  
22 refer to the issue, the context within which this  
23 document arose.

24                  A. And your question is...?

25                  Q. Do you think -- now, I will state a

1 proposition, I want to ask you if you agree with it or  
2 disagree with it: That the issue or context within  
3 which this document arose is representative of the  
4 reality that Indian and white resource claims in  
5 northern Ontario are often adversarial?

6 A. And by adversarial you mean what?

7 You see, I have -- I don't...

8 Confrontation, is that what you believe  
9 by adversarial? I want to make sure that I understand  
10 the context in which you are using that word, because  
11 it is my perception that issues are dealt with at -- in  
12 this particular case, between -- as this particular  
13 issue is, it is quite controversial. There definitely  
14 are at least two sides and probably a number inbetween.  
15 If by adversarial though you mean controversial, I can  
16 agree.

17 I also am aware of a large number of  
18 native resource needs and issues that are resolved  
19 without it ever reaching this sort of level and which  
20 are dealt with on a local basis and quite successfully.  
21 I am also aware of a large number of people in  
22 northwestern Ontario that do have very sincere and very  
23 genuine concerns for native interests and I don't see  
24 those situations as being adversarial.

25 So if you mean controversial, I can agree

1       that quite often the larger kinds of claims or  
2       expressions of want by native people which reach the  
3       political level tend to be very controversial in  
4       nature.

5                   Q. And when issues of that controversial  
6       type do arise, whose side do you believe the Ministry  
7       of Natural Resources is perceived to be on?

8                   A. Whose side are we perceived to be on?

9                   Q. Yes.

10                  A. Sir, if you sat where I sit most days  
11       we don't feel that we have anybody necessarily on our  
12       side.

13                  Q. Well, perhaps I can refer you then to  
14       page 28 of this document and I will read you the first  
15       sentence of the paragraph that begins about the middle  
16       of the page:

17                  "One of the major difficulties however  
18       with local input is that it must be  
19       viewed together with another principle  
20       herein stated: The provincial government  
21       must have the ultimate authority for  
22       decision-making."

23       I recognize, sir, that you have said that you haven't  
24       read this document. Take a minute to check the context  
25       of that sentence, if you like, but my question to you

1       is: Does that appear to you to say that the authors of  
2       this document are relying on you, or at least Ontario  
3       to be the ultimate decision-maker?

4                     A. Is it unreasonable that the Province  
5       of Ontario should not be the ultimate decision-maker?

6                     Q. Well, I think we are going to get to  
7       that, sir. I believe that at one point in time you sat  
8       on a Quota Review Board of some kind which was not the  
9       Government of Ontario deciding everything, it was  
10      actually somebody who had some partial independence  
11      making a decision on something.

12                  A. It is my general understanding that  
13       with most of those kinds of boards that the chairman  
14       makes recommendations to the Minister. It is still the  
15       Minister's ultimate decision.

16                  Q. Well, we will be getting to that in a  
17       moment.

18                  A. Just to go back a bit to your  
19       position -- your situation before when you asked which  
20       side the Ministry was perceived to be on, it relates  
21       basically to a position which I expressed in earlier  
22       cross-examination, that the Ministry tries to play that  
23       mediation role generally, to work out solutions to  
24       issues both within the timber management planning  
25       process and generally, that we don't -- I think I will

1 leave it at that.

2 Q. Sir, I want to read to you a brief  
3 passage from a document which has been filed.

4 MR. COLBORNE: And I apologize, Mr.  
5 Chairman, I didn't bring extra copies but it is part of  
6 an exhibit and the passage I am going to read is very  
7 brief.

8 Q. It is part of Exhibit 383B which is  
9 filed in conjunction with your panel's evidence. It is  
10 part of the documentation appearing as the answer to  
11 Interrogatory No. 4 of the Nishnawbe-Aski Nation and it  
12 is - I am going through all this follow-up because I  
13 think you will know what I am talking about - it is a  
14 letter dated December 11th, 1985 signed by your  
15 Minister, Mr. Kerrio, and addressed to Grand Chief  
16 Dennis Cromarty, et cetera.

17 Are you familiar with that document, sir?  
18 It was filed.

19 MR. STRAIGHT: A. I am generally  
20 familiar with it.

21 Q. Yes. And that is the document where  
22 it says, among other things, that the Ministry of  
23 Natural Resources would be prepared to provide four  
24 square miles to Indian bands that don't have reserves  
25 as long as fair market value is paid to Ontario, et

1 cetera. That is one of the topics included in that  
2 letter?

3 A. You will have to give me a minute to  
4 find that letter. Was the letter itself submitted or  
5 entered?

6 Q. Yes, the letter itself is part of the  
7 exhibit.

8 THE CHAIRMAN: This is the letter  
9 December 11th, 1985?

10 MR. COLBORNE: That's the one.

11 MR. FREIDIN: We have got it. Mr.  
12 Straight, we have it for you. (handed)

13 MR. STRAIGHT: I have it now.

14 MR. COLBORNE: Q. Turn to the last page  
15 of that letter please, sir, and I want to refer you to  
16 the second last paragraph and especially to the  
17 following sentence:

18 "These negotiations would be on the basis  
19 of my response outlined above subject, of  
20 course, to any amendments necessary as a  
21 result of further consultation with other  
22 natural resource users in the area."

23 Now, let me tell you, sir, what I understand that to  
24 mean and you correct me if I am wrong, or you tell me  
25 that you don't know, if you don't know.

1                   I take that to mean that Ontario is  
2       saying we will consider four square miles for Indian  
3       bands that don't have reserves as long as we are paid  
4       for them, we will consider this, we will consider that,  
5       the various items listed in the letter, but concluding  
6       with the statement that:

7                   "If some other resource users  
8       persuade us that we should do otherwise,  
9       well we are going to change our  
10      position."

11       Is that your understanding of the way that letter is  
12      set up?

13                  MR. STRAIGHT: A. I would want to review  
14      that for a minute before I responded to you.

15                  Q. Well, go ahead and review it. It was  
16      filed by your panel.

17                  A. Yes, I recall that. I think I would  
18      go about dealing with that in two ways.

19                  First, I would indicate that basically as  
20      a response of the Ministry to the way we normally do  
21      business with local stakeholders or interest groups;  
22      that we do not act in isolation, that we attempt, to  
23      the best that we can to mediate, if you will, a  
24      successful conclusion to particular resource issues and  
25      that is a reaffirmation of the fact that -- basically

1       of our integrated resource management policy when we  
2       deal within -- in the way in which we deal in a public  
3       forum.

4                   I guess the other problem I have in terms  
5       of dealing with specifics of those documents or issues  
6       relative to native people is somewhat -- was of concern  
7       to me last night. In thinking about my responses to a  
8       number of your questions, while I believe I was right  
9       in the way I responded to them, I took the opportunity  
10      to review some of Mr. Crystal's evidence and found that  
11      many of the areas in which I was dealing were also  
12      covered by what -- by MNR's resource management expert.

13                  And while I would like to deal with  
14       native people in a general sense, I don't wish to be  
15       perceived as MNR's expert and I also am concerned that  
16       the general way in which I may be responding to some of  
17       those issues may be more confusing than helpful to the  
18       Board in recognition of that.

19                  Q. I will try to bear that in mind, sir,  
20       in my questions.

21                  My understanding, however, is that Panel  
22       7 gave us a mass of information about the facts which  
23       are available to resource management decision-makers  
24       and that Panel 8, including yourself, were going to  
25       tell us how those facts were used in order to make

1 decisions, and some of the facts have to do with the  
2 concerns of my clients.

3 So I recognize that you are not here  
4 qualified to give opinion evidence about the policy of  
5 your Ministry on questions of Indian rights, there  
6 is -- I continue to believe evidence which must come  
7 from this panel on that topic.

8 MR. FREIDIN: I would just like to  
9 reiterate what I indicated perhaps when Mr. Colborne  
10 wasn't here, and it is Panels 10 to 14 that are dealing  
11 with the activities. We will deal with how information  
12 which is available might actually be applied in making  
13 decisions about harvest, renewal, maintenance and  
14 access, not this panel.

15 THE CHAIRMAN: Well, having said that,  
16 Mr. Freidin, this panel is still put forward as being  
17 able to indicate to the Board, at least in a general  
18 way, how decisions are made and how various factual  
19 resources are used.

20 MR. FREIDIN: Yes.

21 THE CHAIRMAN: And this particular  
22 witness is a resource manager. So, once again, these  
23 questions I think, at least in a general way, are  
24 certainly relevant.

25 MR. COLBORNE: Q. Mr. Straight, just one

1 further -- one last point about that letter.

2                   If I had access to the correspondence  
3 that goes out to other user groups, would it be common  
4 for me to find letters that are set up in that way; in  
5 other words, saying: Well, we are prepared to indicate  
6 this type of commitment, but we are first going to go  
7 out and talk to other user groups and we may have to  
8 change our view after we have talked to them?

9                   MR. STRAIGHT: A. I am trying to think  
10 of examples where we have made similar sorts of  
11 statements or commitments, as you will, and right off  
12 hand I can't think of any that are quite as specific as  
13 this one. But there certainly are situations where we  
14 do deal with other stakeholders, if you will, and my  
15 general understanding is, is that that very much is a  
16 common way that we do business.

17                  We tend to recognize existing obligations  
18 or existing commitments and we tend to involve the  
19 public in those kinds of decisions in a local area  
20 which might have some effect on them.

21                  Q. So I take it then that you would deny  
22 that MNR operates on the basis of a double standard,  
23 where one set of user groups; that is, Indians are  
24 dealt with in one way, whereas all other user groups  
25 get dealt with in a different way.

1                    You would deny that that would be a  
2 proper or accurate characterization?

3                    A. I don't believe that we operate in a  
4 double standard. I believe that we follow Ministry and  
5 provincial direction in dealing with those issues.

6                    Q. What if objectively the Ministry or  
7 provincial direction contains a built-in double  
8 standard, then would you, as a resource management  
9 decision-maker say at the regional level where you are  
10 located at the present time, have to follow that?

11                  A. And what do you mean by a double  
12 standard? Do you mean a situation where a privilege to  
13 one group is not extended to another for some --  
14 without reason, without rationale?

15                  Q. That would be one situation that  
16 might be characterized as a double standard, yes.

17                  A. Okay, I just wanted a clarification.  
18 Now, is there a question following it?

19                  Q. Yes. I suggest to you that it is  
20 Ontario's policy, and that this might be characterized  
21 as a double standard, to protect any resource rights  
22 which are possessed by non-Indians against Indian  
23 claims, but to not protect resource rights which may be  
24 possessed by Indians against non-Indian claims?

25                  A. Are you suggesting to me that that is

1       the case?

2           Q. Yes.

3           A. I do not believe I agree with that.

4           Q. I want to show you a document. This  
5       is dated December 1988. I couldn't show it to the  
6       witnesses in Panel 6 because it hadn't been produced at  
7       that time. (handed)

8           MR. COLBORNE: Mr. Chairman, perhaps I  
9       will need some guidance from you on this. It seems  
10      that a large proportion of the documentation that is  
11      being produced by the proponent in this hearing has  
12      been produced within a few months of the hearing, but  
13      now we are getting into the stage where I have come up  
14      with a document that is produced during the hearing and  
15      is relevant to witnesses who came before, and I am not  
16      quite sure what to do with that.

17           It is a one-page document and it has to  
18      do with the question that I have before this witness,  
19      but I doubt if he has ever seen the document and I  
20      don't know whether I am to recall witnesses or what.

21           THE CHAIRMAN: Well, I suppose to some  
22      extent, Mr. Colborne, it depends on the nature of the  
23      issue and the nature of the document in question.

24           If it is something that came to your  
25      attention, could have been produced, for instance, by

1       the Ministry at an earlier stage and, therefore, making  
2       any questions on it relevant to a particular panel that  
3       was being called, that's one situation.

4                 If it is something that they could not  
5       themselves have known was in existence, but it is  
6       something that came up at this stage and it is relevant  
7       to what is before this Board, then the Board, I  
8       suppose, might consider asking a witness to be  
9       recalled.

10               Again, we certainly do not want to get  
11       into a situation where we are recalling witnesses on a  
12       regular basis if it, of course, can be avoided. But  
13       very much I think depends on the issue and the nature  
14       of the document itself.

15               MR. COLBORNE: I have provided a copy to  
16       Mr. Freidin, maybe he has something to say.

17               I want to ask the witness about the  
18       document. I want to propose to him that it is a valid  
19       document, although he cannot say that it is and I can't  
20       say that it is without calling witnesses that have  
21       already been here, but that it does relate to the  
22       questions that I am now asking.

23               THE CHAIRMAN: Mr. Freidin, what is your  
24       position on the document, bearing in mind that the  
25       Board does not know what the document is all about at

1           this stage?

2                            MR. FREIDIN:.. Well, I can just tell you  
3                            that the document is dated December, 1988. It has the  
4                            name of the Ontario Native Affairs Directorate. It is  
5                            one page out of a document, the size of which I don't  
6                            know. It is stamped quite clearly 'Draft for  
7                            Discussion Purposes Only', an internal document marked  
8                            for discussion purposes only.

9                            I have taken the position before, Mr.  
10                          Chairman - and I repeat it again - that  
11                          cross-examination on this kind of a document prepared  
12                          to facilitate discussions is not helpful in terms of  
13                          dealing with issues which are before this Board.

14                          I make those comments not having seen the  
15                          entire document that apparently exists.

16                          MR. COLBORNE: Just a point of  
17                          clarification, Mr. Chairman. It is stamped draft, I  
18                          agree with that, but it is also titled that it is a  
19                          preliminary discussion paper prepared for distribution.  
20                          It is not something that came in a brown paper  
21                          envelope, this has been distributed.

22                          MR. FREIDIN: Come on, Mr. Colborne,  
23                          that's a heading on one page and how you can suggest  
24                          what it means is beyond me. I don't know what it is.

25                          THE CHAIRMAN: Well, Mr. Colborne, do you

1 know the context in which this document relates in  
2 terms of what draft document it is from. It is one  
3 page of a document. Do you know the document from  
4 which it comes?

5 MR. COLBORNE: Yes, I can give you the  
6 title. The title is: Discussion Paper, Toward an  
7 Ontario Policy and Strategic Framework Relating to  
8 Aboriginal Self-Government Negotiations: Crown Land and  
9 Natural Resources.

10 THE CHAIRMAN: And do you know for whom  
11 this document was prepared and what its distribution  
12 would be?

13 MR. COLBORNE: It has on its title page  
14 Ontario Native Affairs Directorate, that would be the  
15 office that was referred to in evidence as now being  
16 under the Ministry of the Attorney General, and I am  
17 told that it is a document that has been distributed  
18 fairly widely outside of the government and is a  
19 discussion paper.

20 THE CHAIRMAN: So it is your information  
21 that it is not just an internal government document?

22 MR. COLBORNE: Yes. It is not policy, it  
23 is a draft that is being circulated for discussion and  
24 at some later time a policy will evolve.

25 MR. FREIDIN: Mr. Chairman, before I give

1       the final -- you know, the Ministry's final position on  
2       this, I would like to find out whether it has in fact  
3       been distributed widely outside of government.

4                     My understanding is that the document -  
5       and again, I am not saying that I have made any  
6       inquiries about this, but I can't say, or agree that it  
7       has been or has not been distributed widely outside of  
8       government at all and I would like an opportunity to  
9       make an inquiry about that before I make a final  
10      decision on it.

11                  MR. COLBORNE: I can't say without  
12       absolute certainty that it has been, that's my  
13       understanding. But if it creates a problem, this  
14       hearing is going to continue for some considerable  
15       time, I can come back with the document presumably some  
16       other time.

17                  THE CHAIRMAN: All right. Why don't we  
18       allow Mr. Freidin an opportunity to inquire about the  
19       document and the circumstances under which it was  
20       distributed and advise the Board what his client's  
21       position is as to its admissibility.

22                  MR. COLBORNE: Very well.

23                  THE CHAIRMAN: At this stage -- we will  
24       not admit it at this stage and since this panel member  
25       has not seen the document before, I take it, Mr.

1           Straight--

2           MR. STRAIGHT: No.

3           THE CHAIRMAN: --questions on it may or  
4        may not be relevant to him in any event.

5           MR. COLBORNE: Yes. My position, by the  
6        way, Mr. Chairman, is based on the possibility which  
7        didn't occur to me before today - and it is only a  
8        possibility - that it may be a confidential document.  
9        I don't think it is, but even if there is a possibility  
10      that that's the case, I would be glad to let Mr.  
11      Freidin check.

12           MR. FREIDIN: Thank you.

13           MR. COLBORNE: Q. Sir, I want to talk to  
14      you just for a few minutes about the extent of the  
15      decision-making power at the local district level.

16           I am still just a little unclear of that.  
17      Let me read to you your answers to Mr. Cosman from last  
18      Tuesday. This is in the transcript of January 31, it  
19      is Volume 64 and I will read to you some questions and  
20      answers beginning at page 10790 -- 10790, beginning at  
21      line 3.

22           MR. STRAIGHT: A. We are just trying to  
23      get a copy of that, sir.

24           Q. Yes. These are questions that were  
25      directed to you and answers given by you last week. So

1 perhaps I will just begin now. Question by Mr. Cosman:

2 "Q. Now, but there are times when there  
3 may be a conflict and am I not right that  
4 fish values, for example, don't have  
5 precedence automatically over timber  
6 values in any particular situation?

7 A. I would say there is no automatic  
8 preference.

9 Q. And there shouldn't be, should there,  
10 it is a question of balancing the values  
11 Depending on the particular situation  
12 that presents itself?

13 A. Yes, I believe that's correct

14 Q. And just to come back to the person  
15 would must make the decision when those  
16 conflicts do present themselves, I  
17 understand - and you can correct me if I  
18 am wrong - but I understand that the  
19 person at the MNR perhaps on the front  
20 line of that who must weigh the  
21 conflicting values and make the decisions  
22 is the district manager, something that  
23 you have done yourself in Wawa?

24 A. The district manager working with his  
25 team management, his management planning

1                   team would make recommendations  
2                   essentially to his regional director and  
3                   to the Director of Timber Sales in the  
4                   case of timber management planning to  
5                   approve the final plan.

6                   Q. And you will agree with me that it  
7                   would be appropriate for the district  
8                   manager -- it would be inappropriate for  
9                   that district manager to delegate that  
10                  authority to a biologist, for example,  
11                  who may not appreciate the larger  
12                  environmental picture.

13                  A. Yes.

14                  Q. All right. This brings me to the  
15                  guidelines themselves. "

16                  No, excuse me, that was the end.

17                  Now, I read that to you, sir, because I  
18                  want to explore a little more the extent of the  
19                  authority of the district manager. You have said  
20                  there, I believe, that the district manager would not  
21                  ordinarily delegate a resource management question to  
22                  someone lower, not ordinarily at any rate because there  
23                  is the necessity of seeing the wider picture?

24                  A. Yes, that's correct.

25                  Q. Okay. Now, but what I am not clear

1       on is where, if ever, allocation decisions or resource  
2       management decisions are made at a level higher than  
3       the district level, or does the regional level and the  
4       main office level merely produce things like  
5       guidelines, policies, directives and so on?

6                     A. I don't believe that particular  
7       decision that I was referring to in the context of the  
8       correction by Mr. Cosman is what you would call an  
9       allocation decision.

10                  What my comments specifically referred to  
11       dealt with a particular - in that case we were dealing  
12       generally with a need for possibly a tradeoff decision  
13       and where that ultimate responsibility lied and I guess  
14       the bottom line of my response was that the district  
15       manager makes a recommendation to the regional director  
16       and the Director of Timber Sales Branch, Branch  
17       Director of Timber Sales Branch who approved the plans.

18                  Now, perhaps you can -- in my own mind I  
19       do not perceive that as an allocation kind of an issue  
20       and perhaps you can clarify what you mean by that word.

21                  Q. Going back to the first of the  
22       questions and answers that I read from:

23                  "Q. An allocation type of decision would  
24       be one that had to do with - and here we  
25       are - fish values, for example, don't

1                   take precedence automatically over timber  
2                   values?"

3       That was the question. Your answer was that:

4                   "No, there is no automatic preference."

5       So that...

6                   A. Okay. In that general context the  
7       word allocations was being used interchangeably with  
8       the concept of a tradeoff decision. There is a broader  
9       issue of allocation when we talk about allocation of  
10      resources to users, and I don't want to confuse the  
11      two.

12                  Q. Well, let's take one at a time then.  
13       Allocation of resources to users. Where is that  
14       decision made; district management?

15                  A. Allocation of resources to users?

16                  Q. Yes.

17                  A. As I understand it at this moment,  
18       not particularly a subject before this particular  
19       Board, rather the decisions within the timber  
20       management planning process are, allocation decisions  
21       on uses of resources are -- I don't know if I can  
22       generalize that for you very well. Let me think.

23                  The timber allocation process for the most  
24       part is generally made, for example, at very senior  
25       administerial levels even by Order-in-Council licences,

1       that sort of the thing. So those kinds of allocations  
2       become very high-level type of government decisions.  
3       If that would help you.

4                   Q. Now, you were distinguishing between  
5       allocations of resources to particular users and  
6       something else a moment ago. What was that something  
7       else?

8                   A. If you are talking about the context  
9       in which the question was asked to me, we were dealing  
10      with the need for a potential tradeoff and I think  
11      perhaps allocation, in that context, was very loosely  
12      used. It perhaps should have specified more clearly  
13      the need for a potential or a real tradeoff decision.

14                  Q. Perhaps I misunderstood you, sir, but  
15      I thought you said that there were at least two  
16      different ways of considering allocations; one was an  
17      allocation of a resource to a particular user - and I  
18      think you have said that that could be made at any  
19      level right up to Order-in-Council - but I thought you  
20      were suggesting that there was another way of seeing  
21      this question of allocation, but I may have  
22      misunderstood you.

23                  A. No, I don't -- I believe that  
24      allocation in the context of the transcript as you read  
25      it, and my current understanding would more

1       appropriately be defined as the need for a tradeoff  
2       decision. And I tried to make the point that I see  
3       that in a different context than I see the issue of  
4       allocation over access to, or use of resources.

5                     Q. I am a little unclear. If by  
6       decision of your Ministry or even provincial cabinet  
7       via Order-in-Council resources are allocated, does not  
8       that not imply that some tradeoff decision has  
9       occurred?

10                  A. Some tradeoff decision with regard to  
11       other users, or some tradeoff decision with regard to  
12       other resources?

13                  I would say that it probably has  
14       implications with regard to a commitment or an  
15       allocation to a resource user as relative to others in  
16       particular. It may or may not imply a tradeoff between  
17       uses of different resources.

18                  Q. You are saying that there are some  
19       resource allocation -- excuse me, let me put it this  
20       way: There are some uses of resources following an  
21       allocation which have no effect on other resources?

22                  A. None or perhaps -- none may not be a  
23       good generalization in the sense that, likely, there  
24       will be some kind of effect on some other potential use  
25       somewhere down the line, but it could be a very minimal

1       one.

2                   Q. And, similarly, there are...

3                   A. For example, when you come in for a  
4                   district cutting licence and you get a fuel wood permit  
5                   and you go out and you get your five cords of wood to  
6                   put in your furnace. In a sense, that's giving you an  
7                   access or allocation of a specific resource under terms  
8                   and conditions for a specific fee.

9                   The impacts of your activity are probably  
10                  quite small relative to environmental impacts or other  
11                  resource management issues in general.

12                  MR. MARTEL: Can I ask a question then.  
13                  Let's say you have a small operator who wants to cut in  
14                  a certain area, is the decision to allocate him a  
15                  specific area in the 20-year plan, let's say, of an  
16                  area, is that made by main office or made by the  
17                  district manager?

18                  MR. STRAIGHT: Well, I am not clear on  
19                  the exact specific qualifications of where  
20                  decision-making stops and starts but, generally  
21                  speaking, district managers do have authority to issue  
22                  some of those smaller kinds of licences as the fuel  
23                  wood permit as I just indicated. And that authority  
24                  varies from the district level up to basically the  
25                  Cabinet, I guess, in terms of Order-in-Council licences

1       which would be the larger company types of agreements  
2       or licences.

3                    MR. MARTEL: Some of those licences are  
4       in the range of \$2,000; aren't they, and I am not  
5       talking about somebody going in and getting two cords  
6       of wood or something like that. But is that level,  
7       let's say at the 2000 level for a licence, where is  
8       that decision made?

9                    I guess we are trying to find a spot  
10      where it starts that main office has an input as  
11      opposed to where it is made directly by the district  
12      manager.

13                  MR. STRAIGHT: I think perhaps Dave Scott  
14      can provide you some more specific information on that  
15      that I can.

16                  MR. SCOTT: The \$2,000 figure you are  
17      referring to relates to the district cutting licence  
18      and it is a district manager decision to allocate under  
19      the district cutting licence system within the timber  
20      management plan. It has also changed. I believe the  
21      dollar limits are \$10,000 or 160 acres in size,  
22      whatever that transfers to in hectares.

23                  I remember that change. I believe that's  
24      consistent with what it is now. So those allocation  
25      decisions can be made within the context of the

1                   approved plan at the district.

2                   Order-in-Council licences are ones that  
3                   go to Cabinet.

4                   MR. FREIDIN: I think the conversion of  
5                   that acre figure is 65 hectares. So the district  
6                   manager can give district cutting licences which, in  
7                   this respect, provide for a harvest of up to 65  
8                   hectares.

9                   MR. COLBORNE: Q. Now, sir, I take it  
10                  also that you are saying that there are some  
11                  allocations made where there is no competing applicant,  
12                  as it were, for the particular resource?

13                  MR. STRAIGHT: A. I guess there may  
14                  be -- certainly within the realm of potential  
15                  allocation situations, there may well be instances  
16                  where there is an instance where there are not other  
17                  competing interests.

18                  Q. I am still, sir, exploring this  
19                  distinction between allocations and tradeoffs and I am  
20                  not denying that there may not be such a distinction, I  
21                  am just trying to understand it.

22                  Where tradeoffs have to be made -- let me  
23                  ask you this first: Usually when allocations are made,  
24                  are tradeoffs of some kind implied usually?

25                  A. They may or may not be. It really

1 depends on the specific situation. If indeed, as you  
2 are suggesting, there are other competing interests for  
3 a specific resource and you make an allocation decision  
4 to a party, then obviously in this sense you have made  
5 a decision -- you have traded off one party, if you  
6 will, in a very liberal or general sense, over another.

7 And in that loose context, I would agree  
8 that it does have that connotation, that potentially it  
9 is also a tradeoff decision in a general sense.

10 If you make a decision, for example, to  
11 make a potential park in a particular area, then you  
12 are excluding other uses, depending on provincial park  
13 policy, and in that sense there is a tradeoff of some  
14 values relative to other values involved.

15 Does that help you?

16 Q. Yes. When you use the term  
17 tradeoffs, are you referring to tradeoffs both as  
18 between competing applicants, as it were, and between  
19 competing resource values, for instance, water as  
20 opposed to timber?

21 A. In the context that I was defining  
22 that word, I was implying both, yes.

23 Q. Okay. Now, a few minutes ago, sir, I  
24 referred to the fact that you had at one time sat as  
25 the representative of the Ministry of Natural Resources

1       on a three-person Quota Appeal Board, this had to do  
2       with commercial fishing quotas.

3                  You agreed that is correct because that's  
4       been filed; right?

5                  A. Yes.

6                  Q. How did that Board work? There was a  
7       representative of the Ministry of Natural Resources;  
8       that was you. Who else was on that Board?

9                  A. There was a representative of the  
10      commercial fish industry and there was an independent  
11      chairman.

12                 Q. And the decisions taken, how were  
13      they implemented or enforced?

14                 A. The board chairman made  
15      recommendations to the Minister. If the Minister  
16      supported those recommendations, then the district  
17      office would implement it.

18                 Q. Now, sir, are you familiar with the  
19      Game and Fish Hearing Board?

20                 A. In a very general manner.

21                 Q. Do you know how its decisions are  
22      implemented or enforced?

23                 A. Before I gave you -- I will go about  
24      that in two ways. If you want an absolutely correct  
25      answer, I would seek legal opinion or at least review

1       that section of the Act that deals with it. If you  
2       want a general understanding, I can try and provide it.

3                   Q. Go ahead.

4                   A. But in the sense that -- I think I  
5       would say, no, I don't feel comfortable in responding  
6       to that, sir.

7                   Q. You have spoken of tradeoffs. Did  
8       the Appeal Board that you sat on have to make tradeoff  
9       decisions?

10                  A. We were involved in reviewing  
11       decisions which would have tradeoff-type implications  
12       in two contexts.

13                  Where we were dealing with a prime sports  
14       fish as well as a commercial fish in terms of quota  
15       appeals, we would be dealing with an issue that  
16       would -- when you recognize that fish populations  
17       similar to timber are managed on a sustainable yield  
18       basis, that when commercial allocations or commercial  
19       quotas are developed, they are done so in recognition  
20       and in an attempt to recognize the entire sport fish,  
21       commercial fish and subsistence yield where that occurs  
22       from the entire lake.

23                  So when you review an application for an  
24       increase in a commercial quota of a desired sport fish  
25       species, in a sense you are viewing a situation which

1 has implications for sport fishing relative to  
2 commercial fishing.

3                   If you look at it also in the context  
4 that most often the Ministry defines a commercial  
5 allocation, that when you do then deal with  
6 partitioning that particular allocation amongst  
7 fishermen who are all competing for the overall  
8 commercial fishery, when you do increase an  
9 individual's quota, if you will, in a sense you are  
10 also reviewing a situation which has potential tradeoff  
11 implications between that individual and other  
12 commercial fishermen.

13                  Q. Did that Appeal Board that you sat on  
14 work; was it effective?

15                  A. My own personal belief was that it  
16 was generally effective.

17                  Q. How did the members of that board  
18 hear submissions from those who were interested? For  
19 instance, commercial fishermen whose quota was on the  
20 line presumably would want to be heard by the members  
21 of the Board. How did that take place?

22                  A. We basically held meetings at the  
23 request of commercial fishermen around -- throughout  
24 the area and we would travel to Fort Frances, for  
25 example, travel to Rainy River, and then Kenora as well

1           in particular to hear quota appeals.

2                   Q. Do you know why it was done that way  
3                 as opposed to the usual way that I believe we have been  
4                 talking about here, the usual way being that the  
5                 Ministry, through its various internal processes, makes  
6                 the decisions? Why was this board that you sat on  
7                 different?

8                   A. These particular quotas that were  
9                 established and the need for the Quota Appeal Board  
10                 generally followed from a rather large-scale  
11                 province-wide attempt to deal with some -- imposing  
12                 some modernization principles, if you will, on the  
13                 commercial fishery. And part of that -- one of those  
14                 aspects included an increased control over commercial  
15                 fish yields and the implication of quotas over a large  
16                 number of species.

17                   And, in the sense - I could go into more  
18                 detail but I will try and keep it short - in the sense  
19                 that this was rather a sizeable provincial initiative  
20                 and there was -- and we are dealing with large numbers  
21                 of commercial fishermen across the province, it is my  
22                 understanding that basically, if you will, the duties  
23                 of the Game and Fish Hearing Board were essentially  
24                 replaced for this particular exercise by a local group  
25                 which could deal with the issues of local people in the

1 potential realization that there may be a number of  
2 issues that local fishermen may want to speak to and to  
3 deal with.

4 So it was an attempt by the Ministry to  
5 provide a local appeal mechanism which could be  
6 responsive to the needs of the local people across the  
7 province.

8 Q. If I understand your last answer, you  
9 were saying that the Board that you sat on was  
10 established because there was a sizeable change going  
11 on and because the province wanted a decision-making  
12 process that was local.

13 Are those the two aspects to it that  
14 distinguished it from other things; the size of the  
15 change that was implied, and the local input that was  
16 required or the local knowledge?

17 A. The scope of the exercise and the  
18 need to deal effectively with appeal decisions at the  
19 local level, yes.

20 Q. Now, could we try to lump those under  
21 one label and say that Ontario, in that case, was  
22 trying to set up something that was fair?

23 A. I believe that was an attempt to be  
24 fair.

25 Q. Now, in cases where there is no such

1       board but decisions are made in the usual way, the way  
2       that we have been discussing here, what is built in to  
3       assure fairness?

4                     A. Fairness with regard to what?

5                     Q. Well, to assure that decisions,  
6       whether by the district manager or anywhere up the  
7       line, to assure that those decisions are not made  
8       arbitrarily or they are not made discriminatorily or  
9       they are not made in bad faith, that type of thing?

10                  A. Within that timber management  
11       planning process which is the subject of the hearings,  
12       I believe in cross-examination to Mr. Williams, I  
13       indicated the manner in which decisions are documented  
14       within that process and indicated that that was a  
15       matter for the public record.

16                  And I believe the environmental  
17       assessment process also has provisions, not only to see  
18       the results of decisions that have been made, but also  
19       potentially to appeal them.

20                  Q. Just tell me what the appeal  
21       potential that you have just referred to is?

22                  A. I believe I already covered that  
23       quite extensively with Mr. Williams. The appeal  
24       process?

25                  Q. Yes.

1                   A. My general understanding is that  
2 refers to the bump-up context of the environmental  
3 assessment here.

4                   Q. Thank you.

5                   A. I would also like to indicate that  
6 that really is the formal process and quite often again  
7 at local levels we tend to -- there are informal appeal  
8 mechanisms that normally, commonly are used, whether it  
9 is approaching a district manager to get a different  
10 view or a review of a particular situation, or whether  
11 it is approaching, in the field level, the regional  
12 director.

13                  The organization lends itself to that  
14 kind of an approach and it tends to be a fairly common  
15 practice for people to register appeals within our own  
16 organizational structure to decisions that may have  
17 been made.

18                  Q. What would happen if a decision was  
19 made and the facts were all wrong? And let me just put  
20 this into context.

21                  I think probably most of us here have  
22 seen the very wide media coverage of the apparent fact  
23 that the Department of Fisheries has now discovered --  
24 or at least there is a report that says that there is  
25 something like half as many cod as they thought in the

1       Atlantic, and so the east coast fishermen are up in  
2       arms and so on and so forth. That shows to me that it  
3       is certainly possible in the resource management field  
4       to be totally wrong.

5                  Now, let's apply that to the Ministry of  
6       Natural Resources. If a totally wrong decision is made  
7       because your data is totally wrong, what happens; how  
8       does that get changed?

9                  A. We are dealing here clearly with the  
10      hypothetical; are we not?

11                 Q. No, no, we are not.

12                 A. No?

13                 Q. No. I suggest to you, sir, that  
14       before this hearing is over there will be ample  
15       evidence of the Ministry of Natural Resources being  
16       totally wrong. So it is not entirely hypothetical but  
17       let's deal with it as a situation that has arisen  
18       without identifying what exactly it is.

19                 A. I guess the -- one of the better ways  
20       to deal with that particular question is to go back to  
21       Dr. McNamee's evidence-in-chief and one of the  
22       overheads that he used which suggests that - and is  
23       very much a foundation by which we have developed the  
24       monitoring program, if you will, which will be  
25       presented later - is that we recognize the

1 imperfections in many ways of our ability to predict  
2 quantitatively within the natural environment.

3                   But, at the same time, we use what  
4 information is available in as comprehensive a manner  
5 as we can and we provide a judgment, if you will, a  
6 professional judgment on the basis of that particular  
7 situation which takes us in a particular direction or  
8 path.

9                   And the guidelines -- the provincial  
10 guidelines within this Class Environmental Assessment  
11 are perhaps as good an example of that as I can find.  
12 In taking those directions, we also recognize that  
13 there is a need to monitor or to evaluate the success  
14 of those operations being conducted in that manner and  
15 following the guidelines and, on the basis of a  
16 scientifically-based monitoring program which we intend  
17 to implement and as a result of the information -- the  
18 new information that we generate from that program, it  
19 would be our intentions to adapt or to modify the  
20 directions in response to the new information we  
21 provide.

22                  Q. But, sir, what if a decision has been  
23 made that had very serious effects on users and then  
24 you learn later on that your facts were all wrong or  
25 your methodology was wrong or your science was wrong,

1 what can that user do; if that user even finds out.

2                   And let's assume also that the user  
3 doesn't even find out but you find out. Do you go back  
4 and say you are sorry or anything?

5                   THE CHAIRMAN: Well, Mr. Colborne, where  
6 are you going in this sort of generalization because  
7 surely you will recognize, as I think all of us do,  
8 that in decision-making wrong decisions are in fact  
9 made and this is just -- you know, if society made all  
10 the right decisions all the way along perhaps we  
11 wouldn't have some of the difficulties that society, in  
12 general, has.

13                  And so as a result, you know, I think it  
14 is a recognition that in fact at a given point in time  
15 when decisions are made they may be right or wrong and  
16 if you find out subsequently that they are wrong, then  
17 most institutions and most decision-makers try to do  
18 something about it. And that is purpose of monitoring  
19 programs in the Environmental arena, if I can put it  
20 that way. And I am sure there is lots of other  
21 mechanisms to try and redress past wrongs.

22                  I mean, if you are trying to suggest that  
23 we should design a decision-making process that will  
24 preclude any mistakes ever being made, I suppose I wish  
25 you luck, and if you come up with it, please share it

1       with the rest of us and the rest of the world because I  
2       am sure everyone would be very grateful.

3                   I mean, where is this going? I know you  
4       are making generalizations.

5                   MR. COLBORNE: Well, Mr. Chairman, one of  
6       the themes in my questioning is that there is, in  
7       regard to northern Ontario, almost total power  
8       concentrated within one bureaucracy without sufficient  
9       other players in the market, as it were.

10                  THE CHAIRMAN: Well, I would suggest to  
11       you that this very process we are involved in would  
12       suggest, to some extent, the contrary.

13                  MR. COLBORNE: Once in a hundred years.

14                  THE CHAIRMAN: Well, I mean, there is  
15       legislation on the books that do require adherence to  
16       various processes, the Environmental Assessment Act is  
17       one.

18                  MR. COLBORNE: Yes.

19                  THE CHAIRMAN: And there is other  
20       legislation, as you are aware, that provides for the  
21       checks and balances on the exercise of total authority  
22       by one particular decision-making body.

23                  I suppose you could view government  
24       itself as an ultimate check and balance because, of  
25       course, the government can change the decision-making

1 process itself if it wanted by changing the law.

2 All I am saying is, is you know, we are  
3 entering into a wide ranging discussion here and I  
4 certainly don't want to preclude you from asking  
5 questions of the panel, but I think we don't want to  
6 lose site of the particular application that is before  
7 the Board which is the timber management planning  
8 process.

9 MR. COLBORNE: Very well, Mr. Chairman.  
10 I won't pursue that particular question.

11 Q. Mr. Straight, I want to ask you just  
12 a few questions about the matters that arise beginning  
13 at page 89 of the evidence for your panel; that is  
14 Exhibit 378, and this has to do with the hiring and  
15 training of people who become resource managers.

16 Now, I take it from reading the evidence  
17 at page 89 and what you said in-chief that ordinarily  
18 the Ministry begins with people who have graduated from  
19 Canadian colleges or universities; that is, those who  
20 will become managers?

21 A. They are not necessarily Canadian,  
22 but generally colleges and universities, correct.

23 Q. And then there is in-house training--

24 A. Yes.

25 Q. --throughout the individual's career?

1                   A. Yes.

2                   Q. Now, there is a duties chart -- or  
3                   excuse me, performance management cycle, page 90.

4                   A. Yes.

5                   Q. And my question to you is: What  
6                   would happen to an individual - I am sure you have seen  
7                   cases where something like this has happened - who has  
8                   a different view than the manager?

9                   A. Who has a different view than the  
10                  manager?

11                  Q. Yes.

12                  A. What would happen to him? A  
13                  different view on -- that is quite a generalization.

14                  Q. Well, a serious difference of opinion  
15                  between the employee and the employer in relation to a  
16                  resource management decision, is there any mechanism  
17                  within your Ministry to try to accomodate that type of  
18                  problem, or is it strictly military, as it were,  
19                  whoever has the highest position has the say?

20                  A. Are you now taking the question  
21                  outside of the context of the performance management  
22                  cycle and dealing with a specific decision in an  
23                  instance where a professional I think, or as you  
24                  suggested, has a disagreement with a district manager.

25                  Q. Well, we can use that as an example

1 and use the performance management cycle diagram if you  
2 like.

3 A. Well, they may or may not be in the  
4 similar context. The performance management cycle  
5 deals much more than with a specific decision.

6 The performance management cycle is  
7 basically an opportunity for an individual and his  
8 supervisor or her supervisor to communicate, to come to  
9 a mutual agreement in terms of each other's roles and  
10 responsibilities, to set out and establish specific  
11 work targets that would be achieved over a period of  
12 time, and to basically set the format for dialogue to  
13 occur and communication wherein they can discuss  
14 whether targets were indeed met or not to the  
15 satisfaction of the supervisor. And indeed if targets  
16 aren't particularly being met, then examine ways in  
17 which those situations can be improved or dealt with.  
18 It tends to be, if you will, a personnel management  
19 system in a sense.

20 The situation where there may be a  
21 specific decision where the individual may disagree, in  
22 my context, with his district manager or with his  
23 superior, can enter into this and, in that context, it  
24 becomes a part of a much larger process. It may or may  
25 not be significant, depending on the level of

1 disagreement that occurs.

2 Q. Well, I am just wondering if there is  
3 a built-in policy, an in-house policy to deal with that  
4 kind of difference of opinion when and if it arises.

5 If there isn't, just say so; if there is,  
6 tell me what you know about it?

7 A. My own personal experiences where  
8 there are disagreements of that nature is, is that we  
9 go to fairly extensive attempts in-house internally to  
10 mediate and to try and agree to some kind of  
11 compromise.

12 Q. Is there a policy that you know of?

13 A. I am not aware of a specific policy.  
14 It is -- in my own personal experience, it is something  
15 we do as a matter of course.

16 Q. Sir, at page 96 your evidence says --  
17 I will read you one sentence from the first full  
18 paragraph on that page:

19 "Often staff within the Ministry are  
20 dedicated to MNR for the duration of  
21 their careers."

22 Would you agree, sir, that there is very little  
23 movement back and forth from MNR to other employers who  
24 need the talents of the people who have -- who carry  
25 out the resource management decisions within MNR?

1                   A. I am sorry, would you repeat that  
2 again?

3                   Q. Do you agree that there is very  
4 little back and forth movement between MNR - and I am  
5 talking about resource management decision-makers - and  
6 other employers?

7                   A. I don't know if I would agree  
8 generally with that. I believe it depends on the  
9 particular profession you are talking about.

10                  In my experience, there is a reasonable  
11 degree of movement between, for example, the private  
12 forest industry and MNR in that one in particular. I  
13 am not -- I believe that in other professional areas  
14 and other technical areas there is much less movement.

15                  Q. If a person in a senior management  
16 role with MNR wanted to go somewhere else, could you  
17 just tell me what types of employers are out there that  
18 one might go to, from your own experience?

19                  A. Are you including other government  
20 agencies, or are you excluding government?

21                  Q. Including.

22                  A. There is -- for people who are  
23 interested, there is a lot of potential for Ministry  
24 managers to move within government and certainly both  
25 at -- clearly the provincial level but also the federal

1 government is an option for people.

2                   There would be generally less flexibility  
3 within private industry, in my experience, outside of  
4 the specific example I referred to with regard to the  
5 timber industry.

6                   I have often -- or when I have personally  
7 thought of alternative careers my own personal thoughts  
8 would go either into the consulting line or into  
9 something like teaching and there is a fair bit of -- I  
10 should say, a lot of staff within the Ministry of  
11 Natural Resources do have the qualifications for those  
12 teaching kinds of positions in high schools and that  
13 sort of thing.

14                  Q. Sir, at page 220 of this same exhibit  
15 there is some documents concerning a thing called the  
16 Native Awareness Seminar.

17                  I believe that Ms. Koven asked you about  
18 that on an earlier date - at least I hope my notes are  
19 correct, I haven't reviewed the transcript - and the  
20 question, if I understood it correctly, was whether  
21 that was something that was on-going or not.

22                  And what was your answer, sir; or do you  
23 recall?

24                  A. I believe I said that it was -- those  
25 kinds of courses are planned as the need arises and I

1 believe I may have even referred, in that context, to  
2 it being ad hoc in the sense that we would develop  
3 that -- those kinds of courses or at least this  
4 particular one, which is one that the Ministry itself  
5 set up on, an as need basis.

6 There are occasionally courses which come  
7 up that are sponsored outside of the Ministry which are  
8 also available at times.

9 Q. Are you aware of any others of this  
10 type carried out by the Ministry other than this one?

11 A. I am aware of one being established  
12 in the northcentral region within this same general  
13 time frame. I believe there was also one established  
14 in the northern region, but I would -- that is my  
15 general understanding. I am not a hundred per cent  
16 positive about that.

17 And I am also aware of others dealing  
18 with more specific, for example, in enforcement  
19 capacity that have been set up as well.

20 Q. Turn to page 222, please. Do I  
21 understand it correctly that this page lists the  
22 individuals who attended the seminar of February 22nd  
23 through 24th, 1984?

24 A. Those are lists of people who were in  
25 attendance for all or part of the session, yes.

1                   Q. All right. Now, I count 41. Could  
2 you tell me if those are all the persons at the  
3 resource management decision-making level, or is it a  
4 more mixed group?

5                   A. That is a very mixed group.

6                   Q. Now, somewhere in your evidence - I  
7 hope I can find it right now - there is a chart showing  
8 a thousand and some individuals -- here it is, page 88  
9 professional and technical staff in the area of the  
10 undertaking, total 1,051.

11                  And if I could make my question a little  
12 more specific regarding the 41 people on page 222: Do  
13 I understand you to be saying that some of the people  
14 on page 222, but not all, would be included in this  
15 1,051 professional and technical staff?

16                  A. Those 440 some odd people that you  
17 referred to, if you go to the particular area where it  
18 says northwest NW across the top--

19                  Q. Yes.

20                  A. --and go down to the bottom, it says  
21 173.

22                  Q. Yes.

23                  A. Those 41 would be part of that 173 in  
24 very general terms.

25                  Q. All of the 41?

1                   A. Some of those 41 at the regional  
2 level, for example, would not be included in that 173.

3                   Q. Now, if you could turn to page 210 of  
4 the same exhibit, here is part of the schedule for  
5 Wildlife Management Course in 1986 which you or your  
6 colleagues on the witness panel have furnished as part  
7 of your evidence.

8                   Now, am I correct that the topic of --  
9 one of the topics of Friday, July 18th, key note  
10 address: Wildlife Fisheries and Native People by Al  
11 Stewart.

12                  Do I read this correctly, that that topic  
13 arose after the testing in the course so it would,  
14 therefore, not be on the test? If you would read the  
15 entry for Thursday and then the entry for Friday. Is  
16 that your reading of it?

17                  A. I can't respond to that, I don't  
18 know.

19                  Q. Well, perhaps Mr. Scott furnished  
20 this as part of his evidence and he --

21                  A. This evidence was furnished as an  
22 example of the kind of a training program, in this  
23 particular context, that MNR uses and I believe this is  
24 the Fish and Wildlife certificate course, so it is a  
25 technical level of training. And we provided it

1 basically for example purposes only.

2 We would -- either one of us in this  
3 context - and I believe I am correct, Dave, correct me  
4 if I am wrong - would only be making assumptions and  
5 couldn't speak specifically to what material was  
6 included on the test or not.

7 MR. SCOTT: A. That's correct. I have  
8 no familiarity with the specifics of this course. It  
9 is provided as an example.

10 MR. COLBORNE: Those are my questions.

11 THE CHAIRMAN: Thank you, Mr. Colborne.

12 Ladies and gentlemen -- Mr. Hanna, I take  
13 it counsel has arrived for your Federation?

14 MR. HANNA: Yes, we have. We have spoken  
15 to Ms. Seaborn and we would prefer, if possible, to  
16 continue with her going ahead so that we would have a  
17 moment to prepare...

18 THE CHAIRMAN: Mr. Hanna, the Board would  
19 really prefer that the Ministry retain their normal  
20 position of coming after the other parties so that they  
21 can, in effect, respond to what the other parties have  
22 questioned the panel about.

23 We are willing to go out of order when it  
24 is absolutely necessary. What we are suggesting though  
25 is, is that we have a morning break of perhaps a half

1       hour. Would that give you enough time to at least be  
2       able to start off?

3                    MR. HANNA: My counsel has indicated he  
4       is ready for the challenge and, yes, we will  
5       endeavour -- it is perfectly all right.

6                    THE CHAIRMAN: In meeting the challenge,  
7       we don't want to unduly prolong the cross-examination  
8       either.

9                    MR. HANNA: No, sir, but we have worked  
10      very hard with the people in the Federation to try and  
11      make it concise as possible.

12                  THE CHAIRMAN: Okay. So I think what we  
13      will do is we will break for half an hour and that will  
14      give you a little opportunity to get organized.

15                  And, Ms. Seaborn, if you don't mind, we  
16      will bump you back to your normal spot at the end of  
17      the line.

18                  MS. SEABORN: Thank you, Mr. Chairman.

19                  THE CHAIRMAN: Thank you.

20      ---Recess taken at 10:45 a.m.

21      ---On resuming at 11:20 a.m.

22                  THE CHAIRMAN: Thank you. Be seated,  
23      please.

24                  MR. ARMSTRONG: Mr. Chairman, I think  
25      there are many people I have to thank just briefly.

1                   Firstly, my name is Armstrong, initial B.  
2                   It is my pleasure to be here on behalf of the Ontario  
3                   Federation of Anglers & Hunters. Mr. Williams should  
4                   remain as counsel of record and I will be speaking more  
5                   about what calls him away briefly.

6                   But I just want to thank the Board for  
7                   that half hour. My gratitude to Ms. Seaborn and other  
8                   counsel who may have readjusted their timing and  
9                   questioning, and my apologies for being late. I didn't  
10                  intend to be.

11                  Believe me, in the last 24 hours I have  
12                  lived the movie Planes, Trains and Automobiles. I  
13                  suspect many of you have. But being shunted around  
14                  various towns and cities in the province, never heading  
15                  in my own direction, on little planes that the  
16                  in-flight entertainment, believe me, was my life  
17                  flashing before my eyes. I want to thank you for your  
18                  understanding.

19                  Mr. Williams unfortunately and  
20                  unexpectedly was required at another hearing and I will  
21                  be endeavouring to carry on the cross-examination in  
22                  his absence.

23                  I didn't miss the Chair's point that that  
24                  shouldn't cause the examination to be protracted and I  
25                  will try to be guided by that. I have, however, had an

1 opportunity to review carefully the witness statement  
2 prepared for this panel and select portions of  
3 transcript and I have had capable consultations with  
4 our advisors.

5 Now, again to alleviate the Board's  
6 concerns, on the suspension of Mr. Williams'  
7 cross-examination, I understand that there was some  
8 concern expressed by the proponent's counsel and by the  
9 Board as to the scope of the cross-examination relevant  
10 to this panel and that to be presented by upcoming  
11 panels. And I appreciate and have some understanding  
12 of what has been done, what is to be done, and I will  
13 endeavour to confine myself.

14 Now, perhaps I can just outline some of  
15 the types of questions I wish to put in particular to  
16 Mr. Scott who I have had the chance to meet during the  
17 break and Mr. Straight.

18 Now, as I understand it, this panel has  
19 been brought forward to explain the training and the  
20 qualifications of MNR staff and how these blend with  
21 Ministry directives in the decision-making process.

22 Now, it has been touched on to some  
23 extent but I wish to continue to explore the nature and  
24 adequacy of training and qualifications and directives  
25 relative to the complex task of a timber management

1 plan.

2 Now, I believe Mr. Williams was working  
3 through this proposed timber management plan process,  
4 as indicated in the figures in your proposed Class EA,  
5 and that's where he may have been shifting into --  
6 across a line.

7 THE CHAIRMAN: Yes, Mr. Armstrong, we  
8 certainly appreciate the fact that you haven't been  
9 here to hear directly some of the earlier testimony  
10 but, as we understand it on the Board, some of these  
11 specific activities are going to be dealt with in  
12 Panels 10 through 14, that's harvesting, renewal,  
13 access roads and maintenance.

14 MR. ARMSTRONG: Right.

15 THE CHAIRMAN: And there will be  
16 witnesses on those panels who can deal precisely with  
17 specific questions as to how decisions are made at the  
18 field level relating to those particular activities.

19 In addition, there is going to be a  
20 complete panel - I believe it is 16 - that is going to  
21 deal with the overall timber management planning  
22 process.

23 MR. FREIDIN: 15.

24 THE CHAIRMAN: Sorry, 15.

25 THE CHAIRMAN: And then following that

1 panel is going to be another panel dealing with  
2 monitoring effects and programs in terms of how any  
3 impacts can be mitigated or prevented and whatnot.

4                   This panel is essentially here to provide  
5 us, in a general way, with some aspects of the  
6 decision-making process as well as, with Dr. McNamee,  
7 the effects monitoring model that was constructed which  
8 will be discussed later in more detail as well.

9                   Where Mr. Williams, in our view, was  
10 going astray was the fact that he wanted to put before  
11 this panel questions relating to the Class EA planning  
12 process outlined in Exhibit 4 with very specific  
13 questions which are going to be better addressed, in  
14 our view, by later panels.

15                  MR. ARMSTRONG: Right.

16                  THE CHAIRMAN: So we are not trying to  
17 preclude questioning on the overall decision-making  
18 structure or the training of MNR staff and others and  
19 how certain data is utilized in the decision-making  
20 process. That is properly, I think, for this panel.

21                  MR. ARMSTRONG. And further to that then,  
22 I think perhaps everyone might agree that  
23 decision-making is a process that doesn't occur in a  
24 vaccum and so I have to bounce it off of something, but  
25 we will try to watch that line.

1                           THE CHAIRMAN: That's right. But bearing  
2                           in mind that decision-making is not made in a vaccum  
3                           and it is made in relation to specific activities or  
4                           specific incidents.

5                           MR. ARMSTRONG: Yes.

6                           THE CHAIRMAN: And that may be better  
7                           developed through subsequent panels. But anyways, take  
8                           a run at it and we will monitor your progress and let  
9                           you know how you are doing.

10                          MR. ARMSTRONG. I understand I can also  
11                          expect the firm tutelage of Mr. Freidin if I stray too  
12                          far.

13                          THE CHAIRMAN: Well, Mr. Freidin has been  
14                          relatively quiet today, and perhaps we will let you  
15                          proceed with the cross-examination with him  
16                          interrupting where he feels absolutely necessary that  
17                          something must be said.

18                          MR. ARMSTRONG: In that case then, I will  
19                          do my best to launch forward.

20                          CROSS-EXAMINATION BY MR. ARMSTRONG:

21                          Q. Mr. Scott, I have learned quite a bit  
22                          about you from the witness statement and your  
23                          curriculum vitae and background information.

24                          Maybe I missed it, but I didn't seem to  
25                          find your age. Would you mind telling me how old you

1 are?

MR. SCOTT: A. I am 37.

3 Q. Just when I met you I thought it was  
4 time to ask that question because the appearance of  
5 your age - and I consider 37 to be young - didn't seem  
6 to square with what looked like a lot of experience and  
7 a lot of credentials that have been assembled.

8                    You would have been in your teens then  
9        when you began working with the Ministry?

**A. Yes, Lands & Forest at the time.**

11 Q. And that, as I gather from your  
12 background, tended to be in the forestry end of things?

13                           A. No, that's not true. When I started  
14                           I worked in parks.

15 Q. Yes, I noticed that. Park ranger, or  
16 what have you?

## A. Mm-hmm.

18 Q. You would agree with me that that  
19 didn't involve wielding the levers of authority?

20 A. That's correct.

21 Q. Now, as you developed, however, and  
22 picked up an area of expertise, that was in the  
23 forestry realm?

24                           A. The forestry realm in particular,  
25                           yes, and other experiences as well, fish and wildlife

1 and a variety of experiences.

2 Q. Well, I noticed six months as a fish  
3 and wildlife supervisor?

4 A. No, I don't think it was quite six  
5 months, I think it was five months.

6 Q. And that would be the extent of a  
7 fish and wildlife supervisionship, if I can put it that  
8 way?

9 A. Could you put that again to me?

10 Q. That's a fair question. Five or six  
11 months was as long as you have ever been a fish and  
12 wildlife supervisor?

13 A. That's correct.

14 Q. Now, there is a lot of this sort of  
15 the thing that I don't know much about, but I do know  
16 something about undercover operations being run by a  
17 fish and wildlife management team or even conservation  
18 officers on the ground. You indicated that you were  
19 involved in conducting such activities?

20 A. I believe I indicated I was involved.

21 Q. Well, that's what I wanted to just  
22 get clear on, because it is certainly my experience  
23 that those sort of activities, just by their very  
24 nature, extend beyond five or six months. Would you  
25 agree with that?

1                           MR. FREIDIN: Mr. Chairman, the witness  
2 has indicated that he has engaged in these activities.  
3 I don't see that we need get into that detail, and if  
4 my friend feels that that's necessary, I will have to  
5 consider whether other steps are required in order to  
6 protect the process.

7                           THE CHAIRMAN: Yes, Mr. Armstrong. These  
8 are a public proceeding, as you are aware, and  
9 activities that the Ministry may be involved in on the  
10 enforcement side may be compromised if information does  
11 come out in a public fashion.

12                          MR. ARMSTRONG: I agree.

13                          THE CHAIRMAN: You will have to be  
14 careful in that area.

15                          MR. ARMSTRONG: Yes, I appreciate that.

16                          Q. Perhaps we can round this out, this  
17 aspect of it, Mr. Scott. That if I had to characterize  
18 you as either a forester or a fish and wildlife  
19 supervisor, it would be fair for me to call you a  
20 forester?

21                          MR. SCOTT: A. I believe the way I am  
22 qualified for this panel is as a forester with a great  
23 deal of field experience.

24                          Q. Now, this panel is listed -- there is  
25 a heading Context for Resource Management

1       Decision-Making and a list of tools for such  
2       decision-making is found at page 85 of the statement of  
3       evidence.

4                   That is pretty much the way it is headed  
5       up and called according to my information.

6                   A. Can you say that again.

7                   Q. I am looking at MNR witness panel, it  
8       is in very big print - that speech right in print - and  
9       Panel No. 8 says Context for Resource Management  
10      Decision-Making.

11                  MR. FREIDIN: That document that you are  
12       referring to is a document which I handed out during my  
13       opening address back in May and the title has changed  
14       somewhat.

15                  The title is now Resource Management  
16      Decision-Making: Limitation of Effects.

17                  THE CHAIRMAN: The case, Mr. Armstrong,  
18       has undergone I think in its evolution some degree of  
19       reorganization, if I might put that way and  
20       everything that was indicated in Mr. Freidin's opening  
21       address has not unfolded in exactly that order.

22                  MR. ARMSTRONG: I can certainly  
23       appreciate that something of that magnitude would have  
24       to have those amendments as it goes ahead.

25                  MR. FREIDIN: I am not saying that there

1       is any magic in the tile. I think it is the contents  
2       between the covers which indicate the scope of this  
3       panel.

4                    MR. ARMSTRONG: Q. In any case you are  
5       familiar with page 85 of the...

6                    MR. SCOTT: A. Yes, I am.

7                    Q. That's all I am getting at, is some  
8       guidance as to the type of decision-making tools that  
9       we want to talk about and I want to be fair to you that  
10      we are talking about the same sort of things, and there  
11      is some guidance to decision-making tools on page 85?

12                  A. That's correct.

13                  Q. Now, again, this may as well have had  
14       some change, but I have - I will show it to Mr. Freidin  
15       because he may be able to guide the Board better than  
16       anybody - witness statement November 28, 1988 and it's  
17       a short form statement.

18                  MR. FREIDIN: That's the executive  
19       summary which you will find contained within the larger  
20       witness statement and begins with Timber Management at  
21       page--

22                  MR. SCOTT: 72.

23                  MR. FREIDIN: --page 127.

24                  MR. SCOTT: Page 72, I believe.

25                  MR. FREIDIN: 72, that's right.

1                   MR. ARMSTRONG: Do you have that?

2                   MR. FREIDIN: You have the revision of  
3 what was in Exhibit No. 378 at page 72. It has changed  
4 in that there are references to various portions of the  
5 evidence in your copy, they weren't in the original.

6                   MR. ARMSTRONG: Thank you.

7                   MR. FREIDIN: I am advised it is 378A.

8                   MR. ARMSTRONG: Q. In case, Mr. Scott,  
9 Item No. 7 there --

10                  THE CHAIRMAN: Excuse me, Mr. Armstrong,  
11 my colleague points out that I don't think we ever  
12 entered the revised copy as an exhibit; did we?

13                  MS. BLASTORAH: Mr. Chairman, my  
14 recollection is that it was marked 378A, I believe the  
15 second day of the hearing. I may be ...

16                  THE CHAIRMAN: Sorry. Okay, you are  
17 right. Thank you. We want to make sure we have the  
18 document that you are dealing with in evidence.

19                  MR. ARMSTRONG: Right.

20                  THE CHAIRMAN: Thanks.

21                  MR. ARMSTRONG: Q. You have got it now,  
22 Mr. Scott?

23                  MR. SCOTT: A. Yes, I do.

24                  Q. And The second page, Item No. 7 it  
25 says -- and I take it those initials are Ontario

1           Ministry of Natural Resources?

2           A. That's correct.

3           Q. "The tools available to the resource  
4           manager include.."

5           And then you list or someone lists tools there as well?

6           A. Correct.

7           Q. And further along it tells us that  
8           Item No. 7 is going to be one of those areas that you  
9           will talk to us about?

10          A. Yes.

11          Q. Okay. Now, I don't mean to belabor  
12         all that, or I just want to lay down the foundation of  
13         those areas that we will be discussing, that's all  
14         really.

15          Now -- and we will get back to them.

16          MR. FREIDIN: If I might just add, that  
17         Mr. Straight actually spoke to those paragraphs  
18         although the witness statement or the executive summary  
19         indicates that Mr. Scott was going to.

20          MR. ARMSTRONG: Okay.

21          THE CHAIRMAN: If you are not totally  
22         confused by now, you will be shortly.

23          MR. ARMSTRONG. Well, I am sorry to take  
24         up your time playing what seems to be catch-up ball.

25          THE CHAIRMAN: We understand, we

1 understand.

2 MR. ARMSTRONG: Q. Mr. Scott, I do want  
3 to stay quite closely with those decision-making tools  
4 and to learn from you as a forester what they are, how  
5 they work in the preparation of a timber management  
6 plan; do you understand that.

7 MR. SCOTT: A. Okay.

8 Q. And I understand that you can be a  
9 particular help to us on that because you have actually  
10 worked through and implemented a timber management  
11 plan?

12 A. No, that's not correct. My testimony  
13 was that I chaired the Bright Sands planning team at  
14 the initial stages of preparation of timber management  
15 planning plan and I worked on past plan analysis of the  
16 Rainy Lake Crown Management Unit while in Fort Frances,  
17 but that my experience in terms of doing the timber  
18 management planning or writing the timber management  
19 plan was limited.

20 Q. At what -- I take it you transferred  
21 or left before it was "finished"?

22 A. Yes, that's correct.

23 Q. At what stage was it when you  
24 departed?

25 A. I believe we had just come through

1       the public information session which would be back -- I  
2       had been referring to two pages, one the actual steps  
3       in writing timber management plan, I think on page 109  
4       and then also on page 155 -- that's of the Class  
5       Environmental Assessment Document itself - Figure 2.1-2  
6       I said that like to work with those in conjunction with  
7       each other.

8                          One shows the steps of how you write the  
9       plan and that puts it in context of public  
10      participation process as well. So we had come to the  
11      point where we had completed the information centre and  
12      the draft plan was being produced by the principal  
13      authors.

14                         Q. You say being produced. Had you seen  
15      a draft of that plan, if I can put it that way?

16                         A. No, not that I recall.

17                         Q. Had nothing been written as far as a  
18      plan goes?

19                         A. There were parts written. I had seen  
20      objectives. Actual parts of the plans I am sure were  
21      written, but I did not read them at the time.

22                         Q. Why not?

23                         A. Well, the principal authors were  
24      working for Greak Lakes Forests Products. I chaired  
25      the planning team that was steering presentation of

1       that plan and they were just writing the sections. We  
2       weren't reviewing them as we were writing them, we  
3       wanted to wait for the whole product to come in.

4                     Q. The principal authors were who?

5                     A. I believe Albert Sellers from Great  
6       Lakes Forest Products was the principal author assisted  
7       by Peter Straight the area forester, most principally  
8       involved with the Bright Sands area.

9                     Q. The principal author was an officer  
10      or employee of a private corporation?

11                  A. That's correct.

12                  Q. And you were going to review it once  
13      a complete draft was prepared?

14                  A. I would have done that personally,  
15      yes, and then as a district we would have done that as  
16      well.

17                  Q. You would have seen that as your role  
18      as the Ministry representative and forester responsible  
19      for that plan?

20                  A. I was not the only forester from the  
21      Ministry of Natural Resources on that planning team. I  
22      had described that there were in fact three foresters  
23      from the Ministry of Natural Resources on that planning  
24      team.

25                  In fact, I think I said four, including

1           the acting timber supervisor from Nipigon District.  
2           The designated Crown representative on that FMA was on  
3           that planning team and also one of the other foresters  
4           from our office in Thunder Bay. So there were in fact  
5           four Ministry of Natural Resources foresters on that  
6           planning team.

7                         Q. All right. Then we will broaden it  
8                         out a little bit. But, as I understand from what you  
9                         are telling me, the role of Ministry of Natural  
10                  Resources foresters was to review the draft plan after  
11                  it was ready by the private forest company author?

12                       A. Essentially that's true. That's not  
13                         to say there is not dialogue back and forth as that was  
14                         being prepared, but essentially that's true.

15                       Q. Well, you would agree with me that  
16                         there is considerable difference between dialogue back  
17                         and forth and review after a plan is prepared and  
18                         preparing one?

19                       A. Yes, it is much more work to prepare  
20                         one.

21                       Q. And I have always been guided in  
22                         terms of drafting of legal documents that he who drafts  
23                         governs; in terms of, that is to say, when you write  
24                         something you get to put certain nuances of information  
25                         in it; isn't that true?

1                   A. I have never drafted a legal  
2 document.

3                   Q. You have written a letter?

4                   A. Yes.

5                   Q. And the letter that you write, even  
6 though it may be covering the same essential points,  
7 would have a different tone or tenor than one that your  
8 secretary might write for you covering those same  
9 points?

10                  A. I would say essentially, yes, but  
11 there is an editing process that secures that the  
12 correct tone is presented.

13                  Q. You didn't tell me anything about  
14 editing this plan prepared by the private company, you  
15 told me you reviewed it and there was some  
16 consultation. Are you now saying you edited it?

17                  THE CHAIRMAN: Mr. Armstrong, I don't  
18 want to interrupt you, but we may be covering some  
19 ground that we already covered in this sense:

20                  Perhaps the witness can explain for the  
21 benefit of you, Mr. Armstrong, very quickly what the  
22 process is in terms of the preparation of a plan and  
23 who is responsible under the planning process for doing  
24 the various parts.

25                  MR. SCOTT: Okay. I will do that to the

1 best of my capabilities right now.

2                   In the case of a forest management  
3 agreement, the principal authors for the timber  
4 management plan would be representatives from that  
5 company who hold that forest management agreement.

6                   In the case of Crown management unit, the  
7 principal author would be the forester who is the unit  
8 forester on that Crown management unit.

9                   And for a company unit, that's a non-FMA  
10 unit, wholly licensed to a company, the principal  
11 author could be either from the company or from the  
12 Ministry of Natural Resources.

13                  Now, that principal author in my  
14 estimation of the way that it works is backed by the  
15 planning team and assisted by the planning team in  
16 preparing that timber management plan.

17                  The review process that the Ministry goes  
18 through, we create a list of required alterations to  
19 the plan as we see it in draft form and that would be  
20 submitted back to the company for their attention.

21                  So there is a certain amount of that  
22 editing, there is consultation back and forth and we  
23 have not sacrificed our approval process within  
24 Ministry of Natural Resources, the approval still is by  
25 the regional director of the region which the plan is

1 contained in, and the Director of Timber Sales.

2 And I don't want to make light of that  
3 important approval process and just leave the  
4 indication that if someone just authored the report  
5 that they have control of exactly the tone. There is  
6 quite an extensive review, there is a regional review  
7 in there too in most regions that I am familiar with -  
8 and I assume in all regions - so it is quite an  
9 exhaustive review process.

10 Q. I see. Now, one of the tools that we  
11 are looking at here and have examined for some  
12 questions before, and repetitively, I hope has to do  
13 with qualifications and your qualifications have been  
14 discussed as a forester and, as I have indicated  
15 before, are impressive.

16 What if anything did you know about the  
17 qualifications of the private company author?

18 A. I believe there were foresters and  
19 members of the Ontario Professional Foresters  
20 Association.

21 Q. And your belief of that status would  
22 be the extent of your knowledge of the qualifications?

23 A. That -- yes, essentially that is  
24 true. That is not quite true, because I mean in terms  
25 of dealing in Ignace over the years you come to know

1       some of these people and know their judgment, but in  
2       terms of formal qualifications, that is my  
3       understanding.

4                   Q. It stands to reason to me as well  
5       that if they were working for a private timber company  
6       as foresters that they would have some qualifications  
7       as foresters?

8                   A. I believe I said that.

9                   Q. Yes.

10                  A. They were foresters, they were  
11       members of the OPFA. That is my understanding.

12                  THE CHAIRMAN: Well, you cannot practice  
13       forestry in this province; can you, unless you are  
14       licensed?

15                  MR. SCOTT: No, you can practice forestry  
16       but my understanding is you cannot author a timber  
17       management plan unless you are a member of the Ontario  
18       Professional Foresters Association.

19                  THE CHAIRMAN: And that is a requirement  
20       of what?

21                  MR. SCOTT: I believe that is part of the  
22       Crown Timber Act, but I would have to consult with Mr.  
23       Freidin before I was absolutely sure.

24                  THE CHAIRMAN: Thank you.

25                  MR. COSMAN: Mr. Chairman, I rise only

1 because Mr. Armstrong hasn't been here throughout.

2                   There is a requirement which this Board  
3 has laid down that if there is any allegation being  
4 made about a company's forestry practices then, of  
5 course, advance notice would have to be given so we can  
6 have people from that particular company here to deal  
7 with it.

8                   Perhaps that is not the direction that he  
9 is going, but if there is any suggestion at all that  
10 there is anything wrong with the way in which that  
11 particular plan or agreement was -- or behind that  
12 particular plan or agreement, if there is anything  
13 wrong with it, we should have had advance notice and  
14 perhaps that should be dealt with.

15                  THE CHAIRMAN: Well, I am not sure that  
16 is where Mr. Armstrong is going.

17                  MR. ARMSTRONG: Not at all. No issue  
18 that there is anything wrong with the plan.

19                  MR. COSMAN: Thank you.

20                  THE CHAIRMAN: I think the Board just  
21 wants to know generally what the requirements are of --  
22 formal requirements are of any person that authors a  
23 timber management plan and, obviously, we have heard in  
24 evidence to date that it is, in some cases, done by a  
25 forester who is in the employ of a company on an FMA

1       unit.

2                     But I am not sure I was aware that there  
3       is a statutory provision or other regulation that says  
4       if you are not an accredited forester you can't author  
5       a plan. You are indicating there seems to be such a  
6       regulation so...

7                     MR. SCOTT: Yes, I believe there is. I  
8       see here they have got the Crown Timber Act there.

9                     MR. FREIDIN: Paragraph 6(1)(b) provides  
10      that:

11                     "Every licensee shall, when required by  
12       the Minister, furnish within such a  
13       period as is fixed by the Minister, a  
14       management plan prepared under the  
15       supervision of a professional forester  
16       and certified by..."

17                     And it goes. And you will see that there is a  
18       certification at the front of every timber management  
19       plan. It is also a requirement in the timber  
20       management planning manual.

21                     THE CHAIRMAN: Thank you.

22                     MR. ARMSTRONG: Q. What I really wanted  
23       to move on to next, do you have any specific knowledge  
24       of the qualifications in terms of fish and wildlife  
25       training of these foresters or a forester acting for a

1       private forest company that authored the plan that we  
2       are talking about?

3                    MR. SCOTT: A. No, I don't.

4                    Q. You would agree with me that if they  
5       are being paid to be foresters in a private company, it  
6       is unlikely that they are wildlife managers?

7                    A. I guess, in general, I would agree  
8       that they are not paid to be wildlife managers. But I  
9       don't want to leave the implication that they do not  
10      have concerns about the way wildlife is managed.

11                  Q. They care.

12                  A. I believe so.

13                  Q. But we all care; isn't that true?

14                  A. I would hope so.

15                  Q. And the issue is really -- one of  
16      these other tools and that is professional - what is  
17      the word - professional qualifications and experience,  
18      it is one of these terms that keeps showing up.

19                  We don't know that they have that and we  
20      have no reason to suspect that they should have that  
21      sort of professional qualification in the wildlife  
22      area; isn't that true?

23                  A. I believe that my testimony said that  
24      we had created that planning team and had included  
25      wildlife people on that planning team to provide

1 assistance in that area.

2 Q. But that planning team wasn't the  
3 principal author; was it?

4 A. I have stated that.

5 Q. Now, would you agree with me that in  
6 any problem-solving situation there are certain givens  
7 that we accept and we work from that point to apply our  
8 decision-making tools?

9 A. I know that when I work on  
10 problem-solving I always accept that there are certain  
11 givens and I think I stated that in my evidence.

12 For example, when I try to make  
13 objectives I try to make them measurable and that is a  
14 given, and that I try and confine my limits in solving  
15 the problem within the framework of policy and  
16 legislation, et cetera, as givens. So, in that  
17 context, yes.

18 Q. Now, if I can use a trivial example  
19 as to how a set of givens might affect a  
20 decision-making process; do you play checkers?

21 A. Yes.

22 THE CHAIRMAN: Are you good?

23 MR. SCOTT: I often get beaten by a six  
24 and a half year old girl.

25 MR. ARMSTRONG: Q. But if you and I sat

1 down to play checkers we would have a board with 64  
2 squares and we would each have -- how many pieces would  
3 we each have; 12?

4 MR. SCOTT: A. 24. 12 each.

5 Q. We would each have 12 pieces. Those  
6 are givens; isn't that true?

7 A. Yes.

8 Q. But how we then use those givens;  
9 that is to say, how I assess your style of play and how  
10 aggressive you are or what pieces you have moved and  
11 how you have given them up, those are decision-making  
12 processes I make on top of the given situation, or you  
13 do likewise?

14 A. Okay, yes, I am following you.

15 Q. All right. But the number of squares  
16 we have and the number of pieces we have constrain -  
17 and those are the givens - they constrain the  
18 decision-making process that we follow after that?

19 Well, I will help you. If we happen to  
20 have a board with 100 squares and we each had 15 pieces  
21 we might be making different decisions?

22 A. I am not so sure I would agree with  
23 you. I think we still make the decisions on the  
24 strategy of the opponent that they are using and they  
25 are similar decisions, maybe on a wider scope.

1                    Q. Are you suggesting that you might  
2 move your pieces on to an imaginary square off the  
3 board?

4                    A. No, you gave me an example that we  
5 expand the numbers to a hundred. If we expand the  
6 numbers to a hundred my decisions would still be the  
7 same if we had 64, those are the givens.

8                    Q. You would be working on a different  
9 given though; wouldn't you?

10                  A. Correct.

11                  Q. And it might affect your  
12 decision-making process because you would have more  
13 room to jump?

14                  A. This is getting a little abstract for  
15 me and I am not really following you.

16                  Q. Well, ask me what you don't follow  
17 and I will try to help you out, because some of this is  
18 abstract.

19                  A. I guess where I am coming from is:  
20 You do set your givens and checkers does have 64  
21 squares, it doesn't have 100 squares.

22                  The decisions that I would make would  
23 still be based on the judgment of the opponent in a  
24 game of checkers and the decisions that I would make in  
25 a resource management context still work within the

1       confines of the givens that have been set, and I think  
2       I tried to specify that, that at the level that I have  
3       operated in my experience is, as we set the limits of  
4       the board so to speak, the checker board, and make  
5       decisions within that context.

6                   Q. All right. Let's look at one of the  
7       givens.

8                   I think I am fair in saying that it is a  
9       given, related to something more relevant to what we  
10      are dealing with today, and I have this small version  
11      of the Class Environmental Assessment for Timber  
12      Management on Crown Lands in Ontario, and I suspect you  
13      are familiar with this. It is on page 8:

14                  "Purpose of the Undertaking."

15                  The purpose of the undertaking is to provide a  
16      continuous and predictable supply of wood for Ontario's  
17      forest products industry.

18                  A. That's correct.

19                  Q. That seems to be a given.

20                  A. Yes.

21                  Q. And it is a given that has found its  
22      way into this EA?

23                  A. Mm-hmm.

24                  Q. It seems to be a rather prominent  
25      given because it is the only purpose cited here on this

1           page?

2           A. That's correct.

3           Q. Now -- so this would be indeed a  
4           guiding principle to you as a forester and probably has  
5           been throughout your career?

6           A. Okay. Can you rephrase what my  
7           purpose is as being a forester again, what your  
8           perception is?

9           Q. No, I have no intention of answering  
10          your questions.

11          A. Okay. Can you provide me with the  
12          question then?

13          Q. All right. Have you been guided by  
14          this two-line purpose in your career and in the  
15          endeavors you have carried out for the Ministry of  
16          Natural Resources?

17          A. In terms of being a forester for the  
18          Rainy Lake Crown Management Unit, I felt that one of my  
19          main purposes was ensuring there was a predictable and  
20          continuous wood supply available to the variety of  
21          industries that utilize wood off that timber management  
22          unit.

23          As I became a forest management  
24          supervisor, although that is a prime responsibility,  
25          there are other responsibilities that guide me as well,

1           those of supervision.

2           Q. Supervision of what?

3           A. Staff.

4           Q. I see.

5           A. Integrating activities amongst the  
6         other services within the way we operate in a district  
7         office, and I think that goes back to what we have  
8         talked to in Panel 1.

9           Q. When you use the word integrate, that  
10         rings in my ear a term I have seen, integrated resource  
11         management; is that what you are talking about?

12          A. Yes.

13          Q. All right. What else?

14          A. All I am saying is that as -- I would  
15         not say that in my career as a forester, and prior to  
16         being a forester, that I personally was directed at all  
17         times to ensure that I was providing the continuous and  
18         predictable wood supply for Ontario forest products  
19         industry, but I would say that while I was the unit  
20         forester on the Rainy Lake Crown Management Unit I was  
21         charged with that responsibility.

22          Q. But you would agree with me that for  
23         some reason those other purposes, and specifically  
24         integrated resource management, doesn't seem to appear  
25         as one of these primary purposes.

1                   MR. FREIDIN: Well, Mr. Chairman...

2                   MR. SCOTT: I believe I have been  
3 through that. Oh, sorry.

4                   MR. FREIDIN: We are back at Panel 1 and  
5 we have been over this line of questioning a number of  
6 times by Mr. Williams.

7                   MR. ARMSTRONG: Well, if I may, Mr.  
8 Chairman. With all due respect to my friend, we are  
9 not back to Panel 1, we are back to what I was  
10 endeavoring to demonstrate with the example. We are  
11 back to making a decision; and decision-making process  
12 within certain givens and constraints and that is what  
13 I am talking to this witness about now, in effect, a  
14 mind set.

15                  THE CHAIRMAN: Well, okay, but there is a  
16 fine line in getting back into the discussion of what  
17 the parameters are of this environmental assessment  
18 application and what the undertaking is that is before  
19 the Board, and that has been extensively discussed in  
20 earlier panels.

21                  MR. ARMSON: I won't waste your time  
22 then.

23                  THE CHAIRMAN: So, I think you have got  
24 to take what is on page 8 in the context of what is  
25 already before the Board on that issue, the purpose of

1                   the undertaking.

2                   MR. ARMSTRONG: All right.

3                   THE CHAIRMAN: Because that relates to  
4                   the EA Act itself and what this particular EA covers.  
5                   I think we have discussed that fairly extensively.

6                   MR. ARMSTRONG: Very good.

7                   Q. Again, Mr. Scott, one of these things  
8                   that may bear on your decision-making as a fundamental,  
9                   and I find it at page 110 of the EA after the heading:

10                   "The Forest Resource Inventory (FRI)"

11                   Have you found that?

12                   MR. SCOTT: A. Yes, I have it.

13                   Q. It says:

14                   "For timber management planning purposes,  
15                   the most important information source is  
16                   the forest resource inventory which  
17                   provides descriptive information about  
18                   the timber resource on the Crown lands of  
19                   each management unit in the form of  
20                   interpreted aerial photographs, forest  
21                   stand maps and accompanying ledger data."

22                   Now, would you agree that that is in fact a most -- the  
23                   most important information source?

24                   A. I personally agree that for timber  
25                   management planning that the most important source of

1 information is the forest resource inventory.

2 Q. And, again, would you accept that  
3 most foresters see that as a fundamental truth?

4 A. I would say that, in my experience,  
5 there has been some debate about that, but I will come  
6 back to what I personally believe, and I personally  
7 believe it is the most important source of  
8 information--

9 Q. All right. Now, we now know two  
10 rather substantial principles that you regard as  
11 fundamental and we have been talking about.

12 A. --to timber management planning.

13 Q. And you would agree with me that  
14 timber management planning doesn't occur in a vacuum  
15 either?

16 A. I believe I have given evidence to  
17 that.

18 Q. And would you agree with me that by  
19 starting your decision-making progress in a timber  
20 management plan that you have necessarily a certain  
21 mind set than from these two guiding principles that  
22 might - I am not saying does necessarily - but might  
23 colour any information you subsequently receive and  
24 analyse?

25 A. Information regarding...?

1                   Q. The area, the land mass to be dealt  
2 with in the timber management planning.

3                   A. I do not believe that when I chaired  
4 the Bright Sands planning team I entered the  
5 chairmanship of that planning team with any previous  
6 mind set.

7                   Well, I mean, who can say. Relative to  
8 my own experience and background and upbringing,  
9 everyone has certain mind sets, but I do believe that I  
10 approached that with an open mind.

11                  Q. You didn't approach it with the  
12 purpose of taking out timber?

13                  A. I approach it with the purpose of  
14 producing a timber management plan within the givens  
15 that we had established, those givens that we had  
16 presented in the decision-making tool figure on page  
17 89, is it?

18                  MR. STRAIGHT: A. 85.

19                  MR. SCOTT: A. 85 of our witness  
20 statement.

21                  THE CHAIRMAN: What would the purpose of  
22 a timber management plan be, Mr. Armstrong, if it  
23 wasn't to consider whether or not wood should be  
24 harvested?

25                  MR. ARMSTRONG: Well, that is a very good

1 question. What I am at a loss to understand is how a  
2 timber management plan, just as that, gets dropped in  
3 here under the guise of an environmental assessment.

4 THE CHAIRMAN: Well, if what you are  
5 asking is: Why is the timber management planning  
6 process under the Environmental Assessment Act--

7 MR. ARMSTRONG: No, sir.

8 THE CHAIRMAN: --and before this Board --  
9 what are you asking? I don't understand.

10 MR. ARMSTRONG: Well, it is this: If the  
11 Ministry of Transport goes to build a bridge or a  
12 process of bridge building, it doesn't come before the  
13 Board and give you a short course in civil engineering  
14 telling you how bridges are built. I believe it would  
15 tell you what impact on the water quality and the  
16 physical areas the bridge might have and how that might  
17 impact on the environment. It is not how to build a  
18 bridge or, in this case, how to manage timber.

19 THE CHAIRMAN: But normally, if MTC came  
20 before the Board for the approval of a bridge, we are  
21 looking at a site-specific undertaking in a particular  
22 context.

23 What we have before this Board is  
24 somewhat different, it is a planning process.

25 MR. ARMSTRONG: Yes, I understand that.

1                           THE CHAIRMAN: With site-specific  
2 implications in terms of various activities and that is  
3 why we are, I would suggest to you, involved in some of  
4 the methodology behind the decision-making process, et  
5 cetera.

6                           I mean, I think what you are describing,  
7 to some extent, are some of the differences between a  
8 site-specific, project-specific application and a class  
9 environmental assessment approach and, in this case, in  
10 a planning process.

11                          MR. ARMSTRONG: Fine, Mr. Chairman. What  
12 I am really endeavouring to get at at this stage in  
13 time is how those decision-making tools into all  
14 aspects of environmental impact start from a principal  
15 goal, which we seem to have and which is conceded -  
16 timber production - and if that is where you start,  
17 what effect does that have on your decision-making  
18 relative to environmental impact?

19                          THE CHAIRMAN: Well, this has shades of a  
20 discussion that took place early on in this hearing as  
21 to the context in which this application has been  
22 brought, whether we are dealing with - and I hate to  
23 get back into terminology - forest management or timber  
24 management, and there was a whole series of submissions  
25 made to the Board in that context earlier on.

1                   MR. ARMSTRONG: Well, I would ask to ask  
2                   this question and see if it is fair; if it is not...

3                   Q. And the question is this: If we have  
4                   a pre-established priority which seems to be, you know,  
5                   sensible; that is what we are talking about is timber  
6                   and timber production, and you launch into a plan to  
7                   put that forward in your decision-making process, does  
8                   that not necessarily make non-timber resources a  
9                   secondary consideration in your decision?

10                  MR. SCOTT: A. I think in my mind I  
11                  would say that the production of the timber management  
12                  plan is for the continuous supply of wood, but that  
13                  does not mean that timber management is automatically  
14                  the priority on that forested area.

15                  There may be other plans that are in  
16                  effect, and other pre-existing obligations that have to  
17                  be accounted for.

18                  Q. And in your Figure 85 -- Oh, page 85,  
19                  sorry, Figure 1, it would appear that the way other  
20                  things are accounted for is by a provision of areas of  
21                  concern?

22                  A. No, I believe if you look at my  
23                  interpretation of Figure 85 it would say that we have a  
24                  management planning system, we have a policy of  
25                  integrated resource management, we have legislated

1 mandated and legal obligations, delegation of  
2 authority, provincial policies and procedures which are  
3 in place before we enter into that timber management  
4 planning process.

5 Q. That planning process, does that not  
6 lead you to in-depth planning in some areas with  
7 respect to areas of concern?

8 A. Yes.

9 Q. And consequently or conversely less  
10 in-depth planning in areas of non-concern?

11 A. I don't believe so.

12 Q. Well then, why do we have the title  
13 areas of concern if it is no different than other  
14 areas?

15 A. I believe that the areas of concern  
16 identified where there may be non-timber values which  
17 have to be addressed specifically. That does not mean  
18 to say that as a forester I would not want to manage an  
19 area correctly. If it only had -- if it only had  
20 timber values I wouldn't just want to walk away from  
21 it, I would manage it for those timber values.

22 Q. You will agree with me that in terms  
23 of land mass, the vast area of a timber management unit  
24 or plan is not designated an area of concern, or hasn't  
25 been, in your experience?

1                   A. When we left off last Thursday, this  
2 situation was being discussed in terms of application  
3 of Moose Guidelines.

4                   Because moose run through the complete  
5 range of the unit, essentially the question was put to  
6 me: Do we consider that an area of concern, the whole  
7 timber management unit? And I said no, we focus on  
8 those areas that are of particular concern to moose;  
9 not to say we don't follow the Moose Guidelines.

10                  In terms of the land mass, I don't know  
11 what proportion of the land mass of a forest management  
12 unit would be an area of concern or not.

13                  Q. Do you recall from your Bright Sands  
14 example?

15                  A. From the Bright Sands experience, I  
16 think that most of the area that was proposed for  
17 harvest was not within areas of concern as we had  
18 discussed last week in terms of identifying moose  
19 range, et cetera, but we did identify the values out  
20 there.

21                  Q. Now, when you identify these other  
22 values out there, you have indicated you then give them  
23 some special consideration and treatment?

24                  A. I believe we indicated the documents  
25 in Appendix 1 and the area of concern planning process

1 which is Appendix 1 and 2 of our submission.

2 A. Yes.

3 Q. And essentially as you are making  
4 your decisions as to what to do, then those areas are  
5 handled differently than the area that...

6 A. Not necessarily.

7 Q. Well, let's give--

8 A. I guess I have trouble when you say  
9 handled. How do you mean handled, in terms of timber  
10 management actions?

11 Q. Mm-hmm.

12 A. We may proceed with normal operations  
13 in an area of concern.

14 Q. And are there areas where they are  
15 not cut at all.

16 A. Yes, there are areas we may not  
17 harvest for timber production purposes, yes.

18 Q. If there is an area that you don't  
19 harvest at all for timber production purposes, that  
20 amounts to a constraint on timber production; would you  
21 agree?

22 A. It may or may not. I would have to  
23 relate that back to the objectives of the plan. If we  
24 are still producing the continuous wood supply from  
25 that management unit, it may not constrain.

1                   Q. Well, if there are trees there and  
2 you don't take them, you don't plan ever to take them,  
3 that constrains your production doesn't it?

4                   THE CHAIRMAN: But maybe you won't have a  
5 demand.

6                   MR. ARMSTRONG: Q. What if you have a  
7 demand, does that constrain your production?

8                   MR. SCOTT: A. If you had the demand for  
9 that timber, yes, that would be a constraint --  
10 constraint to production.

11                  Q. And I put it to you, Mr. Scott, that  
12 sometimes in these plans other uses are seen as just  
13 that, as constraints to your principal objective?

14                  A. I suppose that in terms of writing  
15 the timber management plan that other values, when  
16 accounted for -- if there was a demand for the product  
17 and if we put in reserves - and I am starting to really  
18 deal into the abstract and I would much prefer to deal  
19 with specific instances - there are instances when,  
20 yes, they are felt as a constraint to timber  
21 production.

22                  Q. Now, again, I want to get at this  
23 area of mind set in the decision-making and if I could  
24 direct you to page 132 of the witness statement now,  
25 the Role of Fish and Wildlife Regional Technical

1           Committees.

2           MR. FREIDIN: What page?

3           MR. ARMSTRONG: 132.

4           MR. FREIDIN: Thank you.

5           MR. SCOTT: If I can just take a moment  
6       to review the context.

7           MR. ARMSTRONG: Q. Let me know when you  
8       are ready.

9           MR. SCOTT: A. I have some familiarity  
10      with this.

11          Q. All right. And under that heading  
12      that I just read, Role of Fish and Wildlilfe Regional  
13      Technical Committees there is a paragraph that says:

14          "A number of development projects will be  
15      submitted by fish and wildlife staff  
16      or the integrated resource management  
17      specialist. Most of these projects will  
18      be in the area of moose habitat versus  
19      timber."

20          Now, you will agree with me that versus means against?

21          A. Yes.

22          Q. And you will agree with me that that  
23      reveals a certain mind set, a mind set of confrontation  
24      or conflict of two essential aspects?

25          A. Let me put it this way: I can

1 understand how you are reading that into that, but  
2 that's not been my experience, that moose versus timber  
3 is in fact what we deal with in the real world.

4 Q. Is it just a Freudian slip by  
5 somebody that authored this page?

6 A. I have no idea.

7 Q. You would agree with me that  
8 sometimes those slips speak more truth than volumes of  
9 careful thought?

10 A. No, I won't necessarily agree with  
11 that. I will say that oftentimes we do make mistakes  
12 in writing.

13 Q. I need your help, here, Mr. Scott.  
14 One of these tools, as I see it to be a tool, values  
15 map, page 114 of the EA, talks -- I am sorry, for the  
16 reporter, values plural map. Do you have that?

17 A. Okay. Which line are you referring  
18 to here?

19 Q. Well, basically the middle paragraph  
20 talks about these values maps and I wonder if you could  
21 just flush out for me what that's all about and how it  
22 works?

23 A. Okay. If I can just take a moment to  
24 read this and then I will put it in the context in how  
25 I have had experience with it in the past.

1                   MR. FREIDIN: While he is doing that, Mr.  
2                   Armstrong, I will just point out - perhaps you have  
3                   been advised by Mr. Williams - that this particular  
4                   subject matter of timber management planning is going  
5                   to be the focus of Panel No. 15 where we will have  
6                   people who are involved in that particular matter on a  
7                   regular basis.

8                   MR. ARMSTRONG: I will try to govern  
9                   myself accordingly and stay away from the mechanics of  
10                  that, if you will.

11                  MR. FREIDIN: There is more to it than  
12                  mechanics, I can assure you.

13                  MR. SCOTT: Okay. Could you ask your  
14                  question again. I have read this over.

15                  MR. ARMSTRONG: Q. Okay. What I was  
16                  needing your help on is if you could just tell me how  
17                  that system works as a decision-making tool in the  
18                  timber management process?

19                  MR. SCOTT: A. The values map provides  
20                  background information, that's how it works, and if we  
21                  look here, that would be part of the local knowledge as  
22                  we presented in our evidence package.

23                  Q. Mm-hmm. Well, to me the word value  
24                  hints that something must be -- some value must be  
25                  assigned and I want to know who assigns it?

1                   A. I would consider the values map as  
2 background information of things that are out there on  
3 that forest that we are managing, and my idea of the  
4 term value is really it is an information map and  
5 that's how I would use that, as an information map.

6                   Q. Some things have been evaluated and  
7 placed on the map. Inventory been placed on the map?

8                   A. Inventory, all right, yes. Like we  
9 might show a moose salt lick, we may show a tourist  
10 resort where a land use permit has been given. We  
11 usually put on the trap lines, where there might be  
12 moose wintering area, any number of items of  
13 information.

14                  Q. All right. And where actual  
15 timbering operations may get near or impact on one of  
16 those areas, a moose mineral lick or -- let's use that  
17 for an example. Does this value map get us into the  
18 area called rating?

19                  A. I believe we have been over ratings  
20 and weights before and I don't really -- as I said,  
21 through the application of the Moose Guidelines, I  
22 don't really think that that's the way we operate on a  
23 day-to-day basis in timber management planning.

24                  Q. I don't understand. How do you  
25 operate on a day-to-day basis then?

1                   A. My understanding is by application of  
2 these provincial guidelines and through information  
3 from our public, from the wide variety of sources that  
4 we can extract information, that we don't come down to  
5 the point where we say - and I will use Mr. Williams'  
6 example - where timber is two times the value of a  
7 moose and that's the rating or the weight that we put  
8 on that.

9                   I want to review the transcripts to  
10 remind myself of how I dealt with that before, but I  
11 remember we had already dealt with that.

12                  Q. I am trying not to cover the same  
13 ground, but you did mention ratings and weights. There  
14 are some tradeoff things that have to be considered?

15                  A. I believe there are, yes.

16                  Q. All right. Now, I want to bring it  
17 right into line with what we are supposed to be talking  
18 about - if I haven't already - and this is the blending  
19 of what you have just mentioned, professional  
20 qualifications and Ministry guidelines, all right.

21                  What particular qualifications do you  
22 have to weight or balance these competing features in  
23 our example, the timber that may encroach on a mineral  
24 lick?

25                  A. I am not sure how you mean your

1       question. My qualifications I think have been set out.

2                     Q. Well, isn't it true that that  
3       particular decision isn't particularly a professional  
4       matter at all, it may just have a bearing on society's  
5       own priorities at large?

6                     THE CHAIRMAN: Well, Mr. Armstrong, I do  
7       not want to interrupt the line of questioning, but are  
8       we not getting into the area which I think will be  
9       dealt with in a lot more detail in Panel 15 as to how  
10      one goes about making the decisions relative to a  
11      timber management plan and; that is, what resources are  
12      used.

13                  And we have heard evidence, reasonably  
14      extensively to date, on the fact that there is a lot  
15      that goes into the hopper in terms of resource  
16      specialists in various areas that provide a lot of the  
17      information upon which the ultimate decision-maker, be  
18      it a district manager or higher, makes the ultimate  
19      decision. But I don't think there was any inference  
20      that the individual has to be formally trained in all  
21      disciplines themselves in order to be in a position to  
22      make these tradeoffs, because it is more than one  
23      person that considers the elements which go into a  
24      timber management plan.

25                  That's the whole concept I think that we

1 have been through, to some extent, of integrated  
2 resource management, as to how the Ministry has the  
3 ability or whoever the decision-maker is, to call upon  
4 the expertise from a variety of sources including the  
5 public.

6 MR. ARMSTRONG: Right.

7 THE CHAIRMAN: And so if your line of  
8 questioning is along the lines of: How can a man with  
9 Mr. Scott's background; i.e., a forester, be in a  
10 position to make some of these tradeoffs, although his  
11 name may be the one that ends up going on the plan or  
12 regional director or something like that, I think there  
13 is a lot more that goes into the process than just  
14 somebody schooled in a particular areas that signs.

15 And in any event, this is something, Mr.  
16 Freidin, I believe that you intend to deal with  
17 specifically in Panel 15 in terms of taking the Board  
18 through a timber management planning exercise; is that  
19 not correct?

20 MR. FREIDIN: That's correct. Part of  
21 that evidence will be the review of the Red Lake plan  
22 and Mr. Moldinacki will be here and he'll be able to  
23 provide you with information as to what discussions  
24 perhaps took place in relation to specific areas of  
25 concern and that sort of thing.

1                   MR. ARMSTRONG: Thank you very much.

2                   Q. I will move around quickly but I may  
3 have to touch one more point. You would agree with the  
4 Chairman that a lot goes into the hopper?

5                   MR. SCOTT: A. Yes, very much so.

6                   Q. And in terms of traceability and  
7 accountability, when you are trying to trace something  
8 back to a hopper, it is pretty hard to know what went  
9 on in the hopper?

10                  A. I believe in terms of traceability,  
11 we discussed, I believe it is Appendix 1 of the  
12 documentation that's required -- that we require for  
13 those decisions.

14                  Q. All right. Guide me to it.

15                  THE CHAIRMAN: It is Appendix 1 of the  
16 Exhibit No. 4 which is the Environmental Assessment  
17 Document itself.

18                  MR. SCOTT: I think if we look at  
19 Appendix 1, page 5.

20                  MR. ARMSTRONG: Q. What am I supposed to  
21 be seeing there?

22                  MR. SCOTT: A. On line 33 we had  
23 discussed the areas of traceability and accountability  
24 before with particular attention to traceability, and  
25 from line 33 on over to page 6 were some of the key

1 areas that I remember we had entered into discussion  
2 last week.

3 I believe the specific words are entered  
4 in the transcript. I could redo them here, if  
5 necessary.

6 Q. Well, correct me if I am wrong, but  
7 what that seems to be talking about is keeping  
8 somewhere a mass of documentation that traces those  
9 decisions in individual circumstances.

10 A. Yes.

11 Q. And a case-by-case situational  
12 aspect.

13 A. Yes.

14 Q. Well, I may be missing something  
15 here, but how is this Board supposed to congeal that  
16 kind of ad hocary into a process?

17 MR. FREIDIN: You know, we are going to  
18 go through the process and you will see how it is  
19 documented. And again, in Panel 15 if you don't think  
20 it is documented, if somebody doesn't think it is  
21 documented properly within the context of that  
22 evidence, let's talk about it there.

23 We are talking about a bunch of abstract  
24 things and we are going to see real life examples and  
25 have people who in fact have been involved in that

1           particular process extensively.

2           MR. ARMSTRONG: I think my friend had an  
3           objection.

4           MR. FREIDIN: We are getting away ahead  
5           of ourselves.

6           THE CHAIRMAN: Well, I think this is an  
7           objection by Mr. Freidin in a general area, if I can  
8           interpret what your objection was, Mr. Freidin, that it  
9           is hard to deal with this in the abstract when we going  
10          to be dealing with it specifically in Panel 15 related  
11          to specific examples.

12           But in reply to your original question,  
13          Mr. Armstrong, as to how is the Board to deal with an  
14          issue of traceability in terms of its decision in  
15          connection with this application. (a) that is for the  
16          Board to deal with and; (b), if I suggest the Board  
17          feels that the methods suggested by the Ministry for  
18          traceability is inappropriate it will ensure in its  
19          decision, by way of conditions of approval, some other  
20          method of traceability.

21           In other words, the Ministry has put  
22          forward some evidence and will be putting more evidence  
23          forward in Panel 15 as to how it suggests these  
24          decisions can be traced. All of the other parties may  
25          introduce their own evidence as to how they feel

1 decision-making should be traceable and it will be up  
2 for the Board to decide at the end of that as to how it  
3 wishes to ensure, if it does, the traceable aspects of  
4 decision-making.

5 MR. ARMSTRONG: Thank you.

6 THE CHAIRMAN: I mean, you can question  
7 the witnesses as to what is done or what this witness'  
8 belief is, is done in terms of tracing decision-making.

9                                  You may find, for whatever reason, that  
10                                 in your view that is not appropriate or inadequate, and  
11                                 I would suggest that it is for your clients to bring  
12                                 their own evidence at the appropriate time if they feel  
13                                 that way to demonstrate to the Board some other method  
14                                 of traceability that might be more appropriate.

15 At the end of the day the Board will  
16 render its judgment as to which is appropriate or which  
17 isn't.

18 MR. ARMSTRONG: Fine. I will return to  
19 Mr. Scott.

20 Q. And you have told us that this -- it  
21 will be a case-by-case documentation of decisions made?

22 MR. SCOTT: A. Yes.

23 Q. And that would be in discreet  
24 management units separate from each other, or could be?

A. No, there is one timber management

1       unit and these case-by-case basis is under the area of  
2       concern planning process, in my understanding, are  
3       supplementary information or supplementary  
4       documentation to that timber management plan.

5           Q. All right. Wouldn't you have some  
6       considerable variations as to how they are applied in  
7       area to area depending on conditions in area to area?

8           A. Again, it is very difficult to talk  
9       on generalities. My belief is there is variability in  
10      the decision because there is variability in the  
11      conditions and inputs that surround those decisions.  
12      In other words, things change from place to place.

13           Q. Of course.

14           A. We would still keep all that  
15      documentation of how that was, any minutes of meetings,  
16      letters, you know, whatever documentation was  
17      available. But, yes, there is variability in the  
18      decisions because of the variability in conditions in a  
19      natural resource such as a timber area.

20           Q. Could variability and decisions also  
21      stem from variabilities in qualifications and  
22      experience of the people implementing from different  
23      areas?

24           A. I think in my mind I would have to  
25      say that certainly if someone has more experience or if

1 someone has qualifications that can bring to bear  
2 better information to the decision, we have an  
3 opportunity to make better decisions. However, when we  
4 do our reviews at the regional levels or main office  
5 level, we attempt to ensure certain consistency in the  
6 level of decision-making.

7 Q. I appreciate you make that attempt,  
8 but there is, therefore, a real possibility of some  
9 inconsistency though, based on experience and  
10 qualification?

11 A. Well, when you use the word  
12 inconsistency I sort of get a negative tone out of  
13 that, and I would say we make the best decisions we can  
14 at sort of a minimum level and some decisions are made  
15 that are perhaps better, based on the fact that we have  
16 some staff there who may have educational experience or  
17 training that's a little bit above standard, if you are  
18 catching the drift.

19 Yes, there is a possibility for  
20 inconsistency because it is a fact of life, in my mind,  
21 that spread over the area that we are talking about  
22 there are different levels of experience and  
23 qualifications out there, but we have set minimum  
24 standards.

25 Q. Minimum standards of qualification?

1                   A. Yes.

2                   MR. ARMSTRONG: Can I just have a second,  
3 Mr. Chairman.

4                   Q. And could you tell us, please, where  
5 you have documented those minimum qualifications?

6                   MR. SCOTT: A. I haven't really  
7 documented them myself. I know that I have a job  
8 specification which gives me minimum qualifications for  
9 my job. I believe we did enter some into evidence in  
10 Panel 7.

11                  MR. FREIDIN: I think perhaps we gave Mr.  
12 Williams information in Panel No. 7 outlining various  
13 positions and I think we even gave him copies of the  
14 job specifications for those positions because we  
15 weren't going to produce all of the CVs for everybody  
16 in the Ministry.

17                  THE CHAIRMAN: It is our recollection,  
18 Mr. Armstrong, that certainly some examples of various  
19 job specs for different positions were tendered in  
20 evidence as to the types of minimum qualifications that  
21 particular positions called for.

22                  It certainly did not cover obviously all  
23 of the various types of positions in the Ministry and  
24 wasn't meant to. It was an example of certain types of  
25 job qualifications for specific types of jobs, and that

1 was put in as an exhibit, to my recollection.

2 MR. FREIDIN: If I could just have a  
3 moment, Mr. Chairman, I will just see whether that  
4 evidence was submitted.

5 THE CHAIRMAN: It may, Mr. Freidin, have  
6 come in by way of an interrogatory.

7 MR. FREIDIN: Yes. I am just looking in  
8 the witness statement and somebody is looking in the  
9 interrogatories.

10 THE CHAIRMAN: Well, I will tell you it  
11 is almost lunch time. Why don't we have this search  
12 take place over the lunch hour, if this is a convenient  
13 time that we might break, Mr. Armstrong.

14 MR. ARMSTRONG: Yes. Thank you, that  
15 will be fine.

16 THE CHAIRMAN: Okay. We will return at  
17 two o'clock. Thank you.

18 ---Luncheon recess taken at 12:40 p.m.

19 ---Upon resuming at 2:10 p.m.

20 THE CHAIRMAN: Thank you, be seated  
21 please.

22 Ms. Blastorah, you have a proposition to  
23 put before us.

24 MS. BLASTORAH: Yes, Mr. Chairman. We  
25 have had a number of inquiries about the possibility of

1       the next site visit. In response to those inquiries,  
2       we have gone ahead and done some preliminary work and I  
3       believe Ms. Murphy spoke to Mr. Mander about possible  
4       dates.

5                  We have drawn up an initial site proposal  
6       which I can distribute, I have copies here for the  
7       Board and the parties. It is just a one-page very  
8       brief outline at this stage, and on that you will note  
9       that we are suggesting late February or early March for  
10      the next site visit.

11                 The people who contacted us, and the  
12      Board, has previously indicated that you would like to  
13      see some winter operations, and I am advised that  
14      beyond the early part of March you won't be seeing  
15      typical operations or typical winter conditions, or at  
16      least we couldn't guarantee that. So we would like to  
17      try and work it in as soon as possible.

18                 THE CHAIRMAN: I take it when you say  
19      early March, we had had some discussions with Mr.  
20      Mander, who put it before us yesterday, and we were  
21      suggesting the possibility of the 9th or 10th, just  
22      before we break for the March break, and he came back  
23      with an indication, I think, that that was too late in  
24      terms of certain activities.

25                 MS. BLASTORAH: Yes. My understanding is

1 from Mr. Kennedy that we could not see -- or we  
2 certainly couldn't guarantee, in all likelihood would  
3 not be able to see all of the operations that late into  
4 March, we would be past typical winter conditions at  
5 that point.

6 We had suggested initially to Mr. Mander  
7 the date of February 23rd. I understand that he has  
8 just spoken to Mr. Kennedy about some dates the  
9 following week, we could accommodate that as well.

10 So perhaps we could leave that with the  
11 Board and you could give us an indication of what your  
12 preferred date would be and we will try and work around  
13 that.

14 THE CHAIRMAN: Well, we were looking at  
15 it logistically and trying to get a feeling of whether  
16 it would be better at the beginning of a week or at the  
17 end of a week, given the fact that we have to travel  
18 from here to Timmins. And I understand that that is  
19 pretty well overnight -- not overnight travel, but  
20 going from here to Toronto and then back up.

21 MS. BLASTORAH: I understand that is the  
22 case. It is rather hard to get from A to B from here.  
23 You can't get there from here, I think is the way it  
24 goes, you have to go back to Toronto essentially to get  
25 to Timmins.

1                   THE CHAIRMAN: Right. And so probably it  
2 would make more sense, from our view, to try and do it  
3 at the end of the week which would leave really the  
4 23rd, and you are saying possibly the following week  
5 which is...?

6                   MS. BLASTORAH: Well, the following week  
7 would be the 1st, 2nd and 3rd is the Wednesday,  
8 Thursday, Friday, the 1st, 2nd and 3rd of March.

9                   THE CHAIRMAN: Right.

10                  MS. BLASTORAH: We were suggesting  
11 travelling together Timmins on the evening -- afternoon  
12 or evening of the 22nd which is a Wednesday, a full day  
13 on the 23rd from about eight to eight which would  
14 really preclude any return travel that day, and then  
15 travelling back to Toronto, I suppose, on the 24th.

16                  THE CHAIRMAN: Are we going to be in the  
17 forest at five to eight. What do we see at eight  
18 'clock at night in the forest?

19                  MS. BLASTORAH: Well, I expect it would  
20 be travelling back to Timmins from wherever you ended  
21 up.

22                  THE CHAIRMAN: I see, okay.

23                  MS. BLASTORAH: So the return visit on  
24 site visit day would be probably in the dark.

25                  THE CHAIRMAN: Right. Well, we have all

1       been out in the dark before, so I think we can probably  
2       manage it, and then back to Toronto on the Friday?

3                     MS. BLASTORAH: On the Friday. That was  
4       our proposal for the Board's consideration.

5                     THE CHAIRMAN: Okay.

6                     MS. BLASTORAH: Perhaps at this time I  
7       could give out the proposal and we could go through it  
8       quickly.

9                     THE CHAIRMAN: And you are confident that  
10       you could arrange all this and get the necessary input  
11       from the parties as to what they might like us to see  
12       in the time available?

13                  MS. BLASTORAH: Right.

14                  THE CHAIRMAN: Looking at about two weeks  
15       from now.

16                  MS. BLASTORAH: Yes, I appreciate your  
17       concern, Mr. Chairman. It is something we did discuss.

18                  Basically, I guess, at this point we have  
19       done several of these already and I think that we have  
20       sort worked the bugs out of the system hopefully at  
21       this point. We are confident that if we get adequate  
22       decision as to what we are going to do today, that we  
23       can fax out the information to the parties today or  
24       tomorrow, and we are suggesting February 14th for a  
25       response date.

1                   We would then send out a final proposal  
2       on the 16th, and we are confident that, given it is a  
3       one-day site visit as opposed to the several days that  
4       have been done in the past, and that the parties know  
5       the process at this point, and basically the operations  
6       that we are going to be seeing are all things that  
7       people have indicated they are interested in, so  
8       hopefully it would not take a great deal of time to  
9       work those out and we have been able to do that on  
10      relatively short notice on the past site visits.

11                  THE CHAIRMAN: Okay. That is fine, you  
12      can hand all that out. Do any of the parties who are  
13      here today have any basic objections to that proposal?

14                  Ms. Seaborn?

15                  MS. SEABORN: Mr. Chairman, we haven't  
16      seen the proposal yet. I am wondering whether MNR has  
17      considered whether a site visit for winter operations  
18      can be done in the Thunder Bay area, if it is just one  
19      day?

20                  MS. BLASTORAH: Could I have a moment,  
21      Mr. Chairman?

22                  Mr. Chairman, essentially, I understand  
23      that the reason the Timmins area was selected was that  
24      we were attempting to show you a different geographical  
25      area, trying to catch some of the clay belt as well as

1           the boreal forest.

2                         We had seen conditions similar to the  
3                         Thunder Bay area when the Board visited Dryden, I  
4                         understand, so this was an attempt to show you  
5                         something different and that was the reason for  
6                         selecting another area. I suppose it is something that  
7                         we could consider.

8                         THE CHAIRMAN: Okay. Why don't you hand  
9                         out the thing to the parties and the Board, and at the  
10                         afternoon break we will discuss it amongst ourselves and  
11                         hopefully come back and let you know the Board's  
12                         feeling.

13                         MS. BLASTORAH: Mr. Chairman, if I could  
14                         just go through this very briefly once I have handed it  
15                         out. (handed)

16                         THE CHAIRMAN: Okay.

17                         MS. BLASTORAH: I think I have been  
18                         through most of it. Basically you will see the timing  
19                         that we have suggested there and we have discussed that  
20                         briefly.

21                         The purpose of the visit, as set out, is  
22                         to view timber management operations in the winter  
23                         season and we have indicated that is why we are trying  
24                         to get this site visit underway right away and we have  
25                         also indicated we were attempting to show you a

1 different area.

2 I would point out that access to other  
3 types of operations or other things that the parties  
4 might want to see will be limited at this time of year.  
5 I mean, we have set out harvest operations, site  
6 preparation and a snow cache of bare root trees as  
7 sites to visit.

8 Other things we would certainly attempt  
9 to accommodate, but I should indicate that certainly  
10 not all roads are plowed in the area this time of year  
11 and what with the snow depth this year it is difficult  
12 to travel in the bush.

13 I did indicate that the first day,  
14 whenever that is, will be travel to Timmins. All the  
15 travel and accommodation and meals and so on will be  
16 handled in the same way they have been on previous  
17 visits; that is, lunch will be provided on the day of  
18 the site visit and pretty well everything else is left  
19 up to the parties. Certainly we will facilitate  
20 accommodation by suggesting places. I am advised that  
21 there are a number of places to stay in Timmins, and we  
22 will also provide the name of a contact person.  
23 Anybody who has questions right away could contact Mr.  
24 Kennedy at our office here. The phone number is  
25 345-6338.

1                   If anybody is interested in seeing maps  
2 relating to this, we have very, very preliminary maps  
3 and they could contact Mr. Kennedy to see those at the  
4 end of today, preferably.

5                   The travel, I have indicated, would be  
6 from Toronto and we are proposing ground transportation  
7 with a possibility of air travel on this site visit.  
8 The weather conditions are such that air travel is very  
9 unpredictable at this point. Between snow and cold it  
10 maybe difficult and, again, the number of people as in  
11 past visits will be a large factor in that.

12                  As in past instances again, I would ask  
13 the parties to let us know as soon as possible how many  
14 people they anticipate will be accompanying the Board  
15 so that we can make the appropriate arrangements.

16                  Under the sites to visit. The first item  
17 is harvest operations. You will see, we have suggested  
18 chain saw cut and skid and mechanical harvest with a  
19 fellar buncher and grapple skidder as possibilities of  
20 various operations of site preparation and, as I  
21 indicated before, a snow cache of bare root trees which  
22 are planned for planting in 1989.

23                  I think that is basically the proposal to  
24 this point. As I said it is a preliminary one.  
25 Perhaps if anybody has questions they could speak to me

1       on the break and Mr. Kennedy will be available at our  
2       office.

3                     THE CHAIRMAN: Well, perhaps it might be  
4       wise, Mr. Kennedy, if you were here. Could you be here  
5       this afternoon on the break as well.

6                     MR. KENNEDY: Yes.

7                     THE CHAIRMAN: So that if any of the  
8       parties who are present want to question you with  
9       regards to this, they could do so at that time as well.

10                  MS. BLASTORAH: I will contact Mr.  
11       Kennedy when we break so that he can come over.

12                  Thank you, Mr. Chairman.

13                  THE CHAIRMAN: Sorry, Mr. Armstrong for  
14       the interruption.

15                  MR. ARMSTRONG: Not at all, Mr. Chairman.

16                  I just wanted to state for the record  
17       that the pieces of information that I was looking for  
18       just before we adjourned, their references have been  
19       made known to me.

20                  Exhibit 365; that is, 365. That is an  
21       Ontario Federation of Anglers & Hunters Interrogatory  
22       and Exhibit 266A, they both related to Panel 7. I have  
23       now found my way back to those and we don't need to  
24       deal further with that.

25                  THE CHAIRMAN: Thank you.

1                   MR. ARMSTRONG: Q. Now, Mr. Scott, I  
2                   think we were dealing with, as well, the concept to  
3                   some extent of consistency in decision-making and  
4                   backgrounds to make decisions.

5                   And I get the impression now,  
6                   particularly, if you would turn to page 42 of the  
7                   witness statement, I think we may as well get right to  
8                   that; that in the planning process consistency is, to  
9                   some extent, at least achieved by this review process  
10                  and the review team?

11                  MR. SCOTT: A. Which review process?

12                  Q. Of the timber management plan when  
13                  one is prepared.

14                  A. I am sorry, I don't have page 42 of  
15                  the witness statement here.

16                  Q. Mm-hmm. Well, it is called an audit  
17                  team there.

18                  A. Okay. That audit team was the audit  
19                  team of the forest management agreement.

20                  Q. Yes. And am I confused that that is  
21                  something different than the review process that you  
22                  were telling me about?

23                  A. My understanding -- well, as I recall  
24                  our terms of reference, it was to ensure that the  
25                  company complied with the terms and conditions of their

1 forest management agreement. Part of that was making  
2 sure they submitted a timber management plan according  
3 to schedule and any other commitments - I can't recall  
4 the exact details at the time, I would have to review  
5 the five-year report that we produced.

6 Q. Would I be correct that that overview  
7 process does work toward consistency through review?

8 A. That would be an example.

9 Q. Right.

10 A. I believe.

11 Q. Yes. Now, dealing specifically with  
12 the example that is touched on at page 42, that is the  
13 Black River management area or plan.

14 A. Black River Forest management  
15 agreement.

16 Q. Agreement, yes. There were two other  
17 members that were on the audit or review team?

18 A. That's correct.

19 Q. And could you tell me who they were?

20 A. The chairman of the review team was  
21 Mr. John Oteway, the regional director for eastern  
22 region, and the other member of the audit team was Mr.  
23 Phil Smith, and at that time he was the regional  
24 biologist out of Algonquin region.

25 Q. So he was a biologist?

1                   A. Yes.

2                   Q. Right. And what about Mr. Oteway,  
3 what was his qualification and background?

4                   A. I believe Mr. Oteway is a forester,  
5 however his qualifications and background would be as a  
6 regional director.

7                   Q. Wouldn't his job be regional director  
8 and his qualifications be as a forester?

9                   A. Yes, yes.

10                  Q. So in this situation there were two  
11 foresters and one biologist?

12                  A. That's correct.

13                  Q. Would the biologist, that is Mr.  
14 Smith, would you know if he is a fishery biologist or a  
15 wildlife biologist?

16                  A. I don't really recall his background  
17 as I had met him in conjunction with this audit and he  
18 was a regional biologist. I knew he had worked in  
19 other districts, but I don't know exactly what his  
20 specific qualifications are.

21                  Q. Was the selection of this audit team  
22 or review team, was it systematized in some way, and by  
23 that I mean, was there any guideline that says, you  
24 know, two foresters and one biologist or...

25                  A. Not that I'm aware of. I believe, to

1           that point, all the forest management agreement audit  
2        teams were chaired by regional directors.

3           Q. Well, if that was part of the  
4        constant in how these matters were put together, was it  
5        then put together as a matter of where you are in a  
6        hierarchy in the Ministry as opposed to necessarily  
7        qualifications?

8           A. To tell you the truth, I am not  
9        really sure how those teams were determined.

10          Q. Well, you know, I am going to rely on  
11        your experience both as a forester and as yourself  
12        having experience as a wildlife director.

13          A. I was a fish and wildlife supervisor.

14          Q. I am sorry, supervisor. I have some  
15        difficulty with these terms, I don't mind at all...

16          A. In the hierarchy there is quite a  
17        difference.

18          Q. You keep correcting me and I will  
19        eventually get up to speed maybe.

20          Anyway, drawing on your experience, could  
21        you comment on whether or not you would see it as a  
22        good idea if in fact you saw a system put in place to  
23        say that we should have, for instance, one forester,  
24        one fishery biologist, one wildlife biologist, maybe  
25        somebody else, an actual set of criteria that way for

1 these review committees?

2                   A. I am not exactly sure what the system  
3 is to choose them, but I believe there is a system and  
4 I think it is a system chosen to try and achieve a  
5 balance of perspective bringing those differences into  
6 the forest management agreement audit, but I have  
7 really got to say I am not sure.

8                   At the time that I was selected, I  
9 believe I was chosen because of having forestry  
10 expertise and I believe Mr. Smith was chosen because of  
11 his biologist background. As I recall, most of the  
12 teams were made up of three individuals and the  
13 regional director chaired each of those teams.

14                  MR. ARMSTRONG: Mr. Chairman, this may be  
15 an area that falls into compliance and monitoring, that  
16 overview aspect, and I just wonder if we might be  
17 dealing with it in Panel 16?

18                  THE CHAIRMAN: Mr. Freidin?

19                  MR. FREIDIN: Yes, we will be dealing  
20 with it in 16.

21                  THE CHAIRMAN: The make up of audit teams  
22 and that kind of thing?

23                  MR. FREIDIN: Sure. You know, I can't  
24 tell you exactly what every piece of evidence is going  
25 to be in every panel but, yes, we will deal - if I

1       don't deal with it, people who will be there who can  
2       deal with it.

3                     THE CHAIRMAN: Okay. But Mr. Armstrong  
4       curtails his questioning in this area of this panel he  
5       is not going to be foreclosed in Panel 16?

6                     MR. FREIDIN: I don't believe he will be  
7       prejudiced.

8                     MR. ARMSTRONG: Q. Now, if I can refer  
9       you to Exhibit No. 390. Perhaps, Mr. Scott, the  
10      easiest thing might be for me to let you see what I  
11      have because maybe it is difficult for you to find.  
12      (handed)

13                  MR. SCOTT: A. Thank you.

14                  THE CHAIRMAN: What is it, Mr. Armstrong?

15                  MR. ARMSTRONG: This is Ministry of  
16      Natural Resources, a Policy for the Integration of  
17      Other Resource Values in Timber Management and it is a  
18      memo-type document and it says up at the top:  
19      Integration of Other Resource Values in Timber  
20      Management, and I understand it has been entered as  
21      Exhibit 390.

22                  MR. SCOTT: Excuse me.

23                  MR. ARMSTRONG: I am advised it also  
24      appears in Panel 1, page 242 and 243.

25                  THE CHAIRMAN: Okay.

1                   MR. ARMSTRONG: Q. Do you have that?

2                   MR. SCOTT: A. Yes.

3                   Q. What directs me to that is, we were  
4                   talking about consistency and in the paragraph  
5                   Rationale, the last sentence:

6                   " In addition, the identification and  
7                   consideration of other resource values  
8                   has not always taken place in a  
9                   consistent and orderly fashion across the  
10                  province."

11                  And this memo seems to be dealing with or addressing  
12                  that issue. Could you tell me, please, how the concept  
13                  in this memo is used as a planning tool or as a working  
14                  tool?

15                  A. I am trying to review how I handled  
16                  that one when asked the question last week. I believe  
17                  what I had said - and would remain the same - that we  
18                  are trying to attempt to bring more consistency by  
19                  following the area of concern planning policy in this  
20                  proposal which is contained in Appendix 1 and Appendix  
21                  2.

22                  Q. I missed words the just before  
23                  Appendix 1 and Appendix 2.

24                  A. The area of concern planning policy.

25                  Q. All right. So this is one of the

1 bases or background behind this concept areas of  
2 concern, then?

3                   A. If you follow down to the process  
4 section, I believe it spells it out fairly clearly. If  
5 we turn to page 243--

6                   Q. Yes.

7                   A. --it states:

8                   "Responsibility for application of the  
9 technical aspects of the planning process  
10 rests with the party responsible for  
11 production of the timber management plan,  
12 i.e., individual forest companies for  
13 forest management agreement forests and  
14 company management units, and MNR for  
15 Crown management units.

16                   Responsibility for approval of the timber  
17 management plan which incorporates this  
18 planning process rests with the Ministry  
19 of Natural Resources."

20 And as I recall from last week, after reading that, I  
21 directed the specifics to the proposal we have in front  
22 of the Board here, primarily Appendix 1 and 2.

23                   Q. Well, we know, and we have covered  
24 professional qualifications and they are to be blended  
25 with ministerial guidelines, that is what we have been

1 talking about here and I see they are written in many  
2 places. And this is a ministerial guideline, I take  
3 it?

4 A. I believe that is policy; is it not?

5 Q. A policy?

6 A. Yes.

7 Q. All right. Now, in your timber  
8 management planning did you use -- did you blend this  
9 in somewhere?

10 A. We followed the timber management  
11 planning process as outlined in the Timber Management  
12 Planning Manual and that is essentially Section II of  
13 the Class EA as we are proposing here.

14 Q. That is -- so that is covered in  
15 Section II?

16 A. That is my understanding, yes.

17 Q. Okay. Now, about this area of  
18 concern that you have just now been mentioning, let me  
19 direct you to page 147 line 6.

20 A. Of...?

21 Q. Of the EA, line 6 to 21.

22 A. Is that page 146?

23 Q. 147, sorry, line 6 to 21 encompasses  
24 the area I am concerned about. There are two areas  
25 there in bold print; do you see those?

1                   A. Yes, I do.

2                   Q. All right. So this process would  
3 appear to be divided into two phases, the first  
4 determines if a complete reserve is required?

5                   A. Yes, that is how I read that.

6                   Q. Now, could you tell me, please, what  
7 guidelines or manuals your Ministry has prepared to  
8 direct these decisions?

9                   A. I believe those are the guidelines  
10 and manuals that we entered into our evidence; the  
11 Moose, Tourism, Fisheries Guidelines and all the other  
12 associated resource manuals.

13                  Q. I may have suggested to you that it  
14 was No. 1. That is actually No. 2, I think, of the  
15 second bold faced:

16                  A. "Can timber management operations  
17 be carried out while protecting either  
18 identified resource features, land uses  
19 or values? If the answer to that  
20 question is no, the area of concern or  
21 part thereof will normally become a  
22 reserve in which no timber management  
23 operations will be permitted."

24                  That is the part you were referring to?

25                  Q. Yes, all right. Now, and if the area

1       is yes -- if the answer is yes, then we go onto the  
2       second bold faced comment about what you can do, and  
3       what you can do is, in keeping with the silvicultural  
4       ground rules?

5                     A. Yes.

6                     Q. All right. Now, as to the  
7       guidelines -- the Moose Guidelines that you mentioned  
8       that have a bearing on this decision-making process you  
9       have just mentioned they, for instance, don't set any  
10      targets of quantifiable targets of use or enjoyment, if  
11      you will, man day -- person days of hunting, hunting  
12      opportunities?

13                    A. Not to my knowledge, no.

14                    Q. But the silvicultural ground rules  
15      are very specific as to quantifiable goals, aspirations  
16      and indeed techniques?

17                    A. If I can just review a set of ground  
18      rules to make sure. I think the ground rules specify  
19      some options depending on a specific set of  
20      conditions--

21                    Q. Yes.

22                    A. --that exist and are, in general, the  
23      same kind of level of information.

24                    Q. You would say that those two compare  
25      favourably in terms of specificity?

1                   A. Well, without reviewing each of them  
2 extensively again, I believe their intent is somewhat  
3 similar.

4                   If I can just review some of the ground  
5 rules. They have example ground rules in the Spruce  
6 Silvicultural Guide and if I could take a few moments  
7 to review that.

8                   Okay. As I am reading the guidelines  
9 here, the guidelines describe a series of conditions  
10 that can happen for each of the working group species.  
11 I have the spruce guides in my hand right now.

12                  It has a short description of some of the  
13 silvicultural options, if you will, that may be  
14 available and it does get down to stocking -- some  
15 stocking standards in the silvicultural guides which  
16 is -- or in the silvicultural ground rules, I am sorry.

17                  The Moose Guidelines, as I understand  
18 them, don't specify -- say, for example, the amount  
19 of -- the distance of edge we are hoping to create and  
20 I would consider that may be somewhat of a comparable  
21 statistic. The moose guides, as I understand them,  
22 they are to enhance habitat for moose.

23                  Q. But would it be fair for me to say  
24 that within the Moose Guidelines there is nothing in  
25 there that can guide you in the decision:

1                   "Can timber managements be carried  
2                   out..."

3         The first line of this first paragraph that I am  
4         talking about?

5                   A. I would have to reread the moose  
6         guides to be sure of that.

7                   Q. Well, I am not going to ask you to  
8         take that time.

9                   In that first paragraph I am talking  
10        about:

11                  "Can timber management operations be  
12         carried out while protecting the other  
13         identified resource features, land uses  
14         or values?"

15         What is meant by the term protecting resource features?

16                  A. I am trying to think of synonyms  
17         again. Again, we are into an area that is not really  
18         my field of expertise, but I would assume it is just  
19         that, protecting, or the protection of other identified  
20         resource features.

21                  Q. Well, does it mean no impact on them?

22                  MR. FREIDIN: Mr. Chairman, I rise again  
23         to make the submissions I have made over and over.

24                  This witness is not put forward as an  
25         expert in timber management planning, he has said so a

1       number of times and we are going to get nothing but  
2       confusion in terms of understanding the timber  
3       management planning process if we deal with it in the  
4       fashion that we are dealing with it in this panel.

5                  And I have indicated before, this panel  
6       was not put forward to deal with the timber management  
7       planning process. There is a clear distinction between  
8       that, in my respectful submission, and a discussion of  
9       resource management planning and the tools which are  
10      available.

11                 MR. ARMSTRONG: With the greatest respect  
12       to my friend, there is a number of issues that need to  
13       be addressed in response to that energetic objection.

14                 Firstly, I want to make sure we have on  
15       the record that if we are not allowed to examine tools  
16       now, cut off repeatedly from trying to fix them in some  
17       proper context, are we going to be able to talk about  
18       them when it does come up on that timber management  
19       panel? That is a concern.

20                 Secondly, what is supposed to be dealt  
21       with here, as I understand it, is a decision-making  
22       process and decision-making tools. Now, that's what  
23       has been laid out. Now, surely, the basic  
24       considerations for: Can timber management be carried  
25       out and how we come to that decision, and if it can be

1 carried out then what happens, you know, the impact of  
2 the silvicultural ground rules; those are  
3 decision-making tools.

4 I want to know what they are, how they  
5 work so that we can have some basis to prepare to be  
6 able to see them in the context of this full-blown  
7 demonstration of a timber management plan or operation  
8 that's going to come later.

9 All I am asking him is: How does this  
10 decision-making tool work, what is it, explain it. I  
11 haven't asked him to go through his timber management  
12 plan in this question; I am asking him if it means no  
13 impact.

14 As a matter of fact, if we are concerned  
15 about time he can tell me, yes or no.

16 THE CHAIRMAN: Well, Mr. Freidin, it  
17 seems that in the context of questioning this panel  
18 about the use of tools that are used in the timber  
19 management planning process, certainly the use of  
20 policies, directives, guides, guidelines, et cetera,  
21 are relevant.

22 This witness may not be able to answer  
23 how the tools are used.

24 MR. FREIDIN: And that's why I got up,  
25 because the question was: With regard to the moose

1 guides, there is nothing which says whether you can do  
2 this or do that. This panel was not put forward to  
3 deal with those kinds of questions.

4 THE CHAIRMAN: Okay. But there is  
5 nothing wrong with this counsel, in the Board's view,  
6 of putting the question to these witnesses and if these  
7 witnesses are unable to answer, they just state they  
8 can't answer that question in that context.

9 Now, as far as your concern, Mr.  
10 Armstrong, and that of our client of being able to  
11 address the use of these tools and the decision-making  
12 process as it applies to the timber management planning  
13 process, I think both you and Mr. Williams express the  
14 same concern and we have the undertaking of counsel for  
15 the Ministry that a panel will be available to answer  
16 those questions later on. So you will not be precluded  
17 at that stage from asking the questions.

18 And it is not just a matter, Mr. Freidin,  
19 of the questions being put to Panel 15, it is also of  
20 concern that there are going to be members comprising  
21 that panel that can in fact answer them, because we do  
22 not want to get into a situation where these witnesses  
23 can't answer it, we get to 15, they can't answer it  
24 and, you know, the other parties are left in the middle  
25 of nowhere.

1                   Because then the Board will be very  
2 specifically looking at recalling various witnesses so  
3 that the parties can at least have their questions and  
4 proper questions answered.

5                   MR. FREIDIN: I fully understand that.  
6                   And again for Mr. Armstrong's benefit, not only will  
7 Panel 15 be able to answer a lot of these questions, we  
8 have a wildlife biologist I think on every panel, 10 to  
9 14; we have a fisheries biologist on every panel from  
10 10 to 14; we have foresters with field experience on  
11 Panels 10 to 14.

12                  I am not sure whether their expertise --  
13 I think that fairly covers the waterfront and, again...

14                  THE CHAIRMAN: And we have a forester on  
15 this panel with field experience as well.

16                  MR. FREIDIN: He has indicated that his  
17 experience and his expertise is not in timber  
18 management planning. He was being asked questions  
19 about it.

20                  THE CHAIRMAN: Okay. Well, I don't know  
21 if that assists you, Mr. Armstrong, but you will have  
22 an opportunity later. And if you want to just put the  
23 questions you put to this witness in the fashion that  
24 you did and he cannot answer them, then he will have to  
25 state it at this time.

1                   We really can't spend a lot of time  
2 trying to get these answers out when we know  
3 specifically that this whole topic is going to be dealt  
4 with by witnesses later than can.

5                   MR. ARMSTRONG: No, it is not my function  
6 to endeavour to badger. If he doesn't know the answer,  
7 that's fair.

8                   Q. Does protecting the resource in this  
9 context -- does it mean no impact?

10                  MR. SCOTT: A. I am not sure.

11                  Q. Does it mean acceptable impact?

12                  A. Again, I am not sure.

13                  Q. Do you know what, if any, guidelines,  
14 manuals or directives are supplied to MNR staff to  
15 decide on acceptability?

16                  A. I am aware of the guidelines that we  
17 presented in our evidence and I assume that if we  
18 operate within those guidelines they would be within  
19 limits of acceptability, but that's an assumption on my  
20 part and I can't say for sure on that.

21                  Q. Now, you have answered me some  
22 questions however on areas of concern, so let me try in  
23 that area of concern again.

24                  Now, there is a wide range of potential  
25 areas of concern ranging from various wildlife

1       habitats, sensitive fisheries and water quality,  
2       archaeological and historical sites, important  
3       socio-economic areas such as tourist camps, et cetera.

4                   As a result, the range in mechanisms of  
5       impacts are quite diverse and are suitable analytical  
6       tools for this broad range of impacts contained in the  
7       Class EA?

8                   A. Okay. Can you give me the last half  
9       of that again? I realize it is a long list of areas  
10      and I agree with that, there are a wide variety of  
11      areas.

12                  Q. All right. We have to consider  
13      wildlife habitat, that seems to me overshadowing at  
14      least what I am talking about sometimes, but there are  
15      sensitive fisheries, there is water quality,  
16      archaeological and historical sites, and there is  
17      important socio-economic areas such as tourist camps?

18                  A. I would say that's a partial list,  
19      yes, those are good examples.

20                  Q. Well, okay. Now -- and you have  
21      agreed with me that's a broad range of things that have  
22      to be considered?

23                  A. Mm-hmm, yes.

24                  Q. Well, are there suitable analytical  
25      tools for this broad range of impacts contained in the

1           Class EA?

2                   A. I would have to again rely on the  
3 decision-making tools that we have presented and that  
4 we have manuals to cover many of those circumstances --  
5 or guidelines, in my opinion and the area of concern  
6 planning process gives us an adequate process to  
7 identify those areas of concern and come to grips with  
8 a prescription within the timber management planning  
9 process.

10                  Q. Well, doesn't it come down to the  
11 fact that, again we fall back on your professional  
12 qualifications and experience to deal with these  
13 problems on an ad hoc basis?

14                  A. I think I stated before and, in my  
15 own experience, I am not the only person involved in  
16 those decisions and we have a wide range of people to  
17 draw from. And, in fact, I don't make those decisions,  
18 I would make recommendations as a practising forester  
19 through the district manager to the regional director,  
20 et cetera, for approval.

21                  And my qualifications, again, would come  
22 in as a forester, but I would only be representing one  
23 aspect or one viewpoint. There are a wide variety of  
24 viewpoints that we access before we make those  
25 recommendations.

1                   And I think Mr. Straight would have had  
2 more experience in that kind of matter as a deputy  
3 regional director seeing the wide variety of opinions  
4 that are accessed and how he, in terms of the regional  
5 director -- sorry, deputy regional director making a  
6 recommendation to a regional director, may make sure  
7 that a wide variety of basis are covered prior to the  
8 decision being made.

9                   Q. Well, then, maybe Mr. Straight might  
10 be alerted by my concern for another time, as to how  
11 this process that you are describing is or even can be  
12 somehow systematized so it can be focused in an  
13 environmental assessment package.

14                  Now, this second area: If operations can  
15 be carried out, how they can proceed; i.e., the normal  
16 manner of describing the silvicultural rules or with  
17 specific modifications.

18                  Now, when we get talking about the  
19 specific modifications, isn't this basically  
20 considering mitigation measures?

21                  A. Again, I think in the way we had used  
22 the word mitigation, mitigation occurs after an  
23 activity has occurred and I believe these modifications  
24 that are proposed are proposed prior to an activity  
25 occurring.

1                   Q. Now, you will forgive me, Mr. Scott,  
2 if that appears to me to be turning on a word here;  
3 aren't we?

4                   A. I think that's pretty important, in  
5 my understanding--

6                   Q. Okay.

7                   A. --to make sure we get the words  
8 correct.

9                   Q. Can you give me an equal buzz word  
10 then to use in the place of mitigation that you would  
11 like to hear?

12                  A. Okay. First of all, I don't consider  
13 mitigation, the way the discussion went when Mr.  
14 Straight was being cross-examined, that it is simply a  
15 buzz word. However, I would suggest what we are doing  
16 is trying to come up with a prescription for that area  
17 of concern.

18                  Q. All right. In formulating this  
19 prescription for the area of concern, you would have to  
20 look at impact prediction?

21                  A. I think you have to have some sense  
22 of impact prediction, yes.

23                  Q. And evaluation?

24                  A. We have been over this and I just  
25 want to make sure that I have got it right.

1                   MR. FREIDIN: Mr. Chairman...

2                   MR. ARMSTRONG: Mr. Chairman, if Mr.

3                   Freidin just wants to yell over to the witness, don't  
4                   answer the question, that would be about as subtle as  
5                   what we have seen so far.

6                   MR. FREIDIN: I take objection to that.

7                   I wasn't trying to communicate to the witness at all.

8                   THE CHAIRMAN: Okay. Let's proceed along  
9                   the path a bit further in this area and we will see if  
10                  it is going to amount to a repetition of some ground  
11                  that's already been covered.

12                  So, do you want to repeat your last  
13                  question, please?

14                  MR. ARMSTRONG: Q. Well, I am dealing  
15                  with the second question and I have reviewed it with  
16                  you a couple of times, that is that second paragraph in  
17                  bold face?

18                  MR. SCOTT: A. Yes.

19                  Q. Now, to get at this prescription that  
20                  you are talking about, you have agreed with me that  
21                  that involves some impact prediction, and I am asking  
22                  you if it involves some evaluation, and I want to know  
23                  as well if there is some aspect of optimization or  
24                  tradeoff procedure.

25                  Do you not have to deal with all of those

1 to then be able to say: All right, we can go ahead  
2 according to the silvicultural ground rules, or with  
3 specific modifications?

4                   A. I am trying to draw from my  
5 experience where I have dealt with these kinds of  
6 situations where we come up with prescriptions--

7                   Q. That's exactly what I would like you  
8 to do.

9                   A. --within the areas of concern, and  
10 when we get all the information on the table and we  
11 assemble a group of people who can have input into  
12 those decisions, in my experience, there seems to be  
13 usually some fairly clear and agreeable solutions to  
14 most of these areas of concern planning prescriptions  
15 that we come up with.

16                  Therefore, for me to sit here and say we  
17 do prediction, evaluation and optimization, even though  
18 we may do that in some way, shape or form, we don't sit  
19 down as a group and say: First of all, let's predict,  
20 then we will evaluate, then we will optimize because so  
21 many of these things seem to be, in my estimation --  
22 and specific examples that I can think of, we put all  
23 the information on the table and more or less the way  
24 is clear as to how we should proceed.

25                  Now, implicit in that may mean that we do

1 prediction, evaluation and optimization but we, in my  
2 experience, don't sit down and specifically say: Step  
3 1 we are now going to predict; step 2, we are now going  
4 to evaluate; step 3, we are now going to optimize.

5 That's why I am having trouble following  
6 when we go one-by-one in these examples -- in the way  
7 you are giving your question.

8 Q. Well, thank you for that, Mr. Scott,  
9 because that's where I have the trouble too, except I  
10 have it from the other one on. Because what I hear  
11 from you is things like: Well, we usually come to some  
12 agreement and the way is clear. And isn't this sort of  
13 the bolt from the blue syndrome?

14 A. I realize I am getting myself into  
15 trouble with the words that I am using and that's why I  
16 don't want to leave you with that impression.

17 If we follow the area of concern planning  
18 process, document the minutes of the meetings that we  
19 have, document the concerns that are expressed, have  
20 the information available and really -- I also share  
21 the opinion, and it is best to see specific examples of  
22 how we do that in order to determine if we do that, in  
23 your view, effectively or not.

24 Q. Well, again, that's the problem. And  
25 is there any reason why you can't predict and evaluate

1 and come to the optimum suggestion and break it down?

2                   A. In my opinion I would suggest that  
3 if - I don't even want to say for sure - but I would  
4 think that you would see those elements in the  
5 documentation process. They just might not be ordered  
6 in the way that you, as a person, would expect to see  
7 them.

8                   Q. Well, wouldn't it make it more  
9 traceable and accountable if they were?

10                  A. I believe we have a traceable and  
11 accountable documentation process.

12                  Q. Well, given the way you have  
13 characterized it, as usually some agreement and the way  
14 becomes clear, the outside observer, member of the  
15 public could be forgiven for seeing this as a kind of a  
16 black box system?

17                  A. I would put the outside observer as  
18 part of that process.

19                  Q. Well, if you wanted to get a look at  
20 the whole of the process, he would still be seeing it  
21 as a kind of a black box where he couldn't find his way  
22 through as to what happened and when and in what  
23 sequence?

24                  A. I believe they would be able to see  
25 that.

1                           Q. Now, the first paragraph in bold  
2 print:

3                           "Can timber management operations be  
4                           carried out while protecting the other  
5                           identified resource features, land uses  
6                           or values? "

7                           Because if the answer to that question is no -- now,  
8                           some things happen, and what I want to know: Is a  
9                           reserve automatically established if the answer is no  
10                          there?

11                         A. No, I don't believe a reserve is  
12                         automatically established.

13                         Q. Well, who makes that decision not to?

14                         A. I guess, in this case, by approval of  
15                         the plan, the regional director and the Director of  
16                         Timber Sales Branch.

17                         Q. But that would be based -- if that  
18                         person is given that sort of decision-making power, you  
19                         would agree with me that all of his experience bears on  
20                         that?

21                         A. I would say all of his experience,  
22                         all the experience of his advisors, and all of the  
23                         experience and documentation that's gone into that  
24                         recommended plan of action.

25                         And, again, I would have to call on Mr.

1       Straight as a deputy regional director who would have  
2       more experience in that kind of process, but in timber  
3       management planning, because of the way the approval  
4       process is set up, it is the regional director and  
5       Director of Timber Sales who makes those decisions and,  
6       yes, their experience would bear on their decisions.

7                  Q. And the experience might be different  
8       from one individual to another that has to make this  
9       decision or these types of decisions?

10                 A. If we were relying on one individual  
11       to have the only input. But, again, that individual is  
12       advised by a wide group, including those things that we  
13       had mentioned on our figure - and I forgot the evidence  
14       number on the coloured portion we had put in - but  
15       Figure 1 in our evidence panel.

16                 MS. BLASTORAH: Exhibit 396, Mr.  
17       Chairman.

18                 MR. SCOTT: Exhibit 396.

19                 MR. ARMSTRONG: Q. Now, I know you have  
20       told me about other people have inputs, but you have  
21       also told me that the buck stops somewhere and one  
22       individual makes the decision?

23                 MR. SCOTT: A. No, two individuals.  
24       That is two individuals, the Director of Timber Sales  
25       is one individual and the regional director of the

1 appropriate region is the other individual.

2 Q. Now, there was a time in England when  
3 the phrase was used that justice varied with the length  
4 of the chancellor's foot. Now, isn't that what we are  
5 looking at here without systematizing that aspect of  
6 the decision-making process?

7 A. Can I digest that for a moment,  
8 please. Maybe if you could explain what you mean and  
9 ask that again I can be more helpful.

10 Q. Well, what I mean is just what I  
11 started talking to you about this morning. Everybody  
12 makes their own decisions and attacks problems based on  
13 their own personal learning experience and mind set;  
14 right?

15 A. Okay.

16 Q. And that's different for everybody;  
17 right?

18 A. Their own personal experiences, yes,  
19 I would agree.

20 Q. Yes. Now, but I am a part of all  
21 that I have seen, so it is different for everybody.

22 And, consequently, do you not agree with  
23 me that having that decision-making process fuction the  
24 way you do -- the way it does rather, without being  
25 formally systematized in any way or being put into this

1 EA, leaves room for the opportunity for this  
2 inconsistency that I am suggesting to you by that  
3 little analogy that I used?

4 THE CHAIRMAN: Mr. Armstrong, how do you  
5 ever get a system in place that does not have the final  
6 decision or appellate decision end somewhere?

7 MR. ARMSTRONG: That's a good question.

8 THE CHAIRMAN: Somebody at the end of the  
9 process -- even if the process is very detailed, you  
10 have to do this, this, this and this, unless it is a  
11 type of process that takes out of it entirely any  
12 discretion whatsoever. It has to end with somebody.

13 MR. ARMSTRONG: Yes, it does. But my  
14 concern is: What guidance do we get into a whole  
15 process, in any way formalized, into the proposal  
16 that's being put forward.

17 THE CHAIRMAN: Well, we haven't seen the  
18 entirety of the planning process at this stage, but we  
19 have had a glimpse into the various inputs into that  
20 process with the decision being made at various levels.

21 And I would suggest that the proponent is  
22 going to put the overall process before us, in terms of  
23 timber management, in Panel 15 and we are going to see  
24 how the overall process works. And I would suggest  
25 that the end result will probably be the same, in that

1       a regional director and/or the Timber Management Sales  
2       Branch Director, if that is the correct title, probably  
3       ends up making the ultimate decision on a plan.

4                    MR. ARMSTRONG: I take it this is going  
5       to be quite a long panel, this No. 15.

6                    THE CHAIRMAN: If you had been here since  
7       the beginning of this hearing, you would realize that  
8       what is going to go into Panel 15 will be anything and  
9       everything that has not been addressed up until Panel  
10      15.

11                  MR. FREIDIN: It might get very short, if  
12       we deal with it in Panels 8 through 14.

13                  MR. MARTEL: Do you want to make any  
14       bets.

15                  THE CHAIRMAN: There is a joke around the  
16       hearing that, unfortunately you are not privy to, that  
17       whenever there is any area that nobody is sure of, in  
18       terms of when it will be addressed, it will be Panel  
19      15.

20                  MR. ARMSTRONG: Well, you make a very  
21       good point and always the buck stops somewhere and I  
22       think I have looked into what I have wanted to in that.

23                  THE CHAIRMAN: Okay.

24                  MR. ARMSTRONG: Q. Now, again, the  
25       second paragraph, end words:

1                         "...or with specific modifications."

2     And these modifications or modified operations I think  
3     shows up again at 149, line 26; does it?

4                         MR. SCOTT: A. Line 27 to -- line 27, 28  
5     and 29. Page one forty....

6                         Q. 149.

7                         A. Nine.

8                         Q. Line 26, in and around there.

9                         A. Sorry, you may have it right, I had  
10    page 148.

11                        Q. If you could start at line 24, read  
12    it, it really gives you the paragraph.

13                        A. I will just read it again:

14                        "If, however, it is determined that  
15    modifications to normal operations are  
16    required to protect other identified  
17    resource features, land uses or values,  
18    a detailed planning procedure must be  
19    followed as described on Appendix 1.

20                        That planning procedure requires..."

21    And it goes on to detail some of the things that it  
22    requires.

23                        Q. And I am correct in understanding  
24    that it requires a detailed planning process and that's  
25    mandatory in this consideration?

1                   A. Yes, that's essentially the one that  
2 I have been referring to and trying to indicate that  
3 that's where the detail comes.

4                   Q. Now, I am not suggesting that  
5 necessarily all these answers have to be new, but the  
6 questions touch new areas and if they are old answers  
7 then that's fair enough, but what analytical tools is  
8 your Ministry suggesting for approval in this detailed  
9 planning process to evaluate potential environmental  
10 effects?

11                  A. Again, I have to come back and rely  
12 on the tools as we presented them and I would say that  
13 if we are dealing with a moose issue and we want to  
14 create moose habitat, we follow those Moose Guidelines  
15 and we evaluate how they do it and we have those other  
16 tools as we have presented.

17                  Q. And so, again, the set up as it is  
18 put in figure form at page 85?

19                  A. Yes, Figure 1.

20                  Q. In Figure 1?

21                  A. Yes.

22                  Q. All right.

23                  MR. ARMSTRONG: If I can just have a  
24 second.

25                  Q. Now, I touched on this a little bit

1       this morning, but I got the impression from you that  
2       the majority of the timber management plan area isn't  
3       categorized as area of concern usually?

4                     A. The timber management plan areas that  
5       I have had experience with, that would be true.

6                     Q. And so the majority of the physical  
7       land mass that you are familiar with would be governed  
8       by the silvicultural ground rules?

9                     A. That's correct.

10                  Q. And we see comment of that on page  
11       146 line 17. Now --

12                  MR. FREIDIN: What page?

13                  MR. ARMSTRONG: 146, line 17 and  
14       following.

15                  Q. And when we get down to line 25, 26,  
16       silvicultural ground rules are designed:

17                  "to ensure that the timber resource and  
18       related soils and site characteristics  
19       are protected."

20       And you would agree with that?

21                  MR. SCOTT: A. Yes.

22                  Q. "And their use is expected to result  
23       in minimal and acceptable environmental  
24       effects."

25       You would agree with that?

1                   A. Yes.

2                   Q. Now, here I realize I have to be  
3 careful - and probably more careful than I have been -  
4 but you are teaching me as I go that the silvicultural  
5 ground rules are by and large derived from the  
6 silvicultural guides; is that right?

7                   A. That is one of the sources. There is  
8 local information and some local variation and the  
9 silvicultural ground rules are essentially made up as a  
10 compendium of information of which the silvicultural  
11 guide forms one of the principal pieces of input.

12                  Q. Okay. Now, you have included as part  
13 of the reference to Document No. 1 in your witness  
14 statement the Tables of Contents from five  
15 Silvicultural Guides.

16                  Let me see if I can find the page for  
17 you. Page 287 to 312 -- oh, I am sorry, in the witness  
18 statement.

19                  A. Yes.

20                  Q. Yes. Now, I realize this may take  
21 you a minute, but I am suggesting to you that only the  
22 most recent guide for the spruce working circle  
23 contains more than a passing reference to non-timber  
24 values?

25                  A. That's correct.

1                   Q. All right. And then the material  
2 included is -- what material is included is strictly of  
3 a descriptive nature touching non-timber values?

4                   A. Yes. As I described - and maybe I  
5 can explain to you - that section really leads you to  
6 some of the principal species that may be involved in  
7 the directions to the guides that may apply in  
8 management prescriptions within those working groups,  
9 or within the spruce working group, since that is where  
10 it is contained.

11                  Q. That is principal tree species?

12                  A. Yes. In terms of working group, the  
13 Spruce Guide means of a forest unit of trees, spruce is  
14 the principal tree species.

15                  Q. All right. Now, the aspen or white  
16 pine working groups, one can conclude that the  
17 environmental effects are minimal, let alone  
18 acceptable, when there is no reference to these  
19 considerations?

20                  A. No, I believe those are being  
21 rewritten and the aspen working group should be in a  
22 published form I believe before the end of the winter,  
23 and the white pine working group I believe will be out  
24 this fall, and both those new revised guides have  
25 sections contained on the other values.

1                   Q. Non-timber values?

2                   A. Non-timber values, yes.

3                   Q. Do they include details with respect  
4                   to prediction, evaluation and environmental impacts?

5                   A. They would provide details similar to  
6                   what is in the Spruce Guides and that really leads us  
7                   to what guides apply in what circumstances and some of  
8                   the potential impacts. If I could refer to the Spruce  
9                   Guide again, yes.

10                  Do you have the Spruce Guide?

11                  Q. I think I just have the index in the  
12                  witness statement.

13                  MS. BLASTORAH: Mr. Chairman, that is  
14                  Exhibit 382.

15                  MR. FREIDIN: We have an extra copy.

16                  MR. ARMSTRONG: Q. While we are all  
17                  looking at that, maybe you can just tell me: When are  
18                  these new ones due to be out?

19                  MR. SCOTT: A. I have a schedule in my  
20                  notes here, if I can just refer to it, but I believe in  
21                  general sense the Aspen Guides are at the printer's now  
22                  and are imminent. The White Pine Guides I believe are  
23                  due for the fall or -- no, sorry, will be printed out  
24                  in the summer. I believe the Tolerant Hardwood Guides  
25                  will be out in the fall.

1                    Q. Now, what were you wanting to point  
2                    out to me on the spruce working group?

3                    A. If we turn to page 33 you will see  
4                    Table -- or 34, I am sorry, of the Spruce Guide, Table  
5                    4 entitled: Wildlife Habitat: Timber Management  
6                    Concerns and Timber Management Strategies within Spruce  
7                    Working Group.

8                    It identifies a number of species, the  
9                    kind of habitat that they would have and the concerns  
10                  in timber management. If I can give moose as the  
11                  example, the concern in timber management would be loss  
12                  of winter shelter and security cover and disturbances  
13                  of aquatic feeding areas, mineral lick sites and  
14                  calving sites.

15                  It also leads to a number of timber  
16                  management strategies, potential strategies and, in the  
17                  guide, that is the kind of thing you will be seeing in  
18                  the other guides as they are prepared, the other  
19                  silvicultural guides as they are prepared.

20                  MR. ARMSTRONG: Mr. Chairman, I don't  
21                  know what time you usually break for afternoon, but if  
22                  it is any time around about now, I wouldn't mind having  
23                  that time to look through this material.

24                  THE CHAIRMAN: Well, I will arrange that.  
25                  We will break right now for 20 minutes.

1        ---Recess taken at 3:20 p.m.

2        ---Upon resuming at 3:40 p.m.

3                    THE CHAIRMAN: Thank you. Be seated,  
4                    please.

5                    Just before you recommence, Mr.  
6                    Armstrong, just a couple of short things.

7                    With respect to the site visit, the Board  
8                    has considered the proposal made and we would be  
9                    agreeable to going on this particular site visit on the  
10                  23rd of February and that would mean leaving Thunder  
11                  Bay probably on the 5:10 plane back to Toronto on the  
12                  Wednesday and then getting back up to Timmins that  
13                  night and then commencing.

14                  MR. FREIDIN: You are taking a real risk  
15                  if you want to take that 5:10 if you think you are  
16                  going to get back in time to catch a flight to Timmins.  
17                  I know you haven't been using that flight and you may  
18                  want to leave a little earlier.

19                  MRS. KOVEN: We always use that flight.

20                  THE CHAIRMAN: We always use that flight.

21                  MR. FREIDIN: That flight is never on  
22                  time, always late.

23                  THE CHAIRMAN: Well, we have got  
24                  something like over an hour I believe to play in  
25                  Toronto in terms of catching the other flight.

1                   MR. FLEET: If the flights are on  
2 schedule it can be done. You do have to change  
3 terminals too.

4                   MR. FREIDIN: Which requires time too.

5                   THE CHAIRMAN: Let's put it this way:  
6 Subject to the availability of transportation, the  
7 Board would be willing to go on this site visit so that  
8 we end up in Timmins ready to go on Thursday the 23rd,  
9 would be on the site visit for the day, and then would  
10 be returning back to Toronto on the Friday morning.

11                  Now, we will leave it to MNR to get in  
12 touch with all of the relevant parties for their input  
13 and I take it that you will be in a position to have a  
14 drafted out itinerary probably by the latter part of  
15 next week, or the very beginning of the following week?

16                  THE CHAIRMAN: Here's Mr. Kennedy.

17                  MR. FREIDIN: Oh yes, Mr. Kennedy.

18                  THE CHAIRMAN: Mr. Kennedy, we are just  
19 discussing the site visit. The Board is agreeable to  
20 going on the site visit on the 23rd of February,  
21 subject to us being able to get up to Timmins on the  
22 Wednesday night, going on the site visit on the  
23 Thursday, returning back to Toronto Friday morning.

24                  We are asking MNR to make the necessary  
25 arrangements with the other parties as to their input,

1 as to what sites would be visited, and for MNR to come  
2 out with their more or less final itinerary towards the  
3 latter end of next week or the very beginning of the  
4 following week and then we will go from there.

5 MR. FREIDIN: You will have the itinerary  
6 by the 16th. We are asking people to have comments  
7 into the Ministry by the 14th.

8 THE CHAIRMAN: And I take, it since there  
9 is not much time, you will be speaking by phone, fax  
10 machine, et cetera, in order to get this input?

11 MS. BLASTORAH: Yes, Mr. Chairman. I  
12 believe the idea was that we were going to fax this  
13 material.

14 THE CHAIRMAN: Now, with respect to the  
15 other parties being concerned about the fact that they  
16 don't have a lengthy time to consider where the Board  
17 should visit, I think you should view this particular  
18 site visit as somewhat different from the others in  
19 that it is for a specific purpose, to basically see  
20 some operations in the winter time, and I think in  
21 advance of Panel 10 in terms of evidence, and there  
22 will be other opportunities later on in the hearing for  
23 the Board to see other areas, perhaps within the same  
24 vicinity on some other site visits. So you are not  
25 precluded from other areas of interest if you don't get

1       on this particular one.

2               Okay. So that is one logistical matter.

3               The second thing I just want to mention  
4       is that evidently at the last scoping session in  
5       Toronto the Board set the 13th of February as the date  
6       for parties to submit statements of issue on Panel 11,  
7       that was our understanding.

8               In view of the fact that we will not be  
9       reaching Panel 11 for some time to come, we are  
10      suggesting that the statements of issues, as far as the  
11      date goes, can be extended until the 20th of February.

12               We won't be holding the actual scoping  
13      session on those statement of issues until probably  
14      somewhere around the middle of Panel 10's evidence,  
15      whenever that might be. We will set a date for that as  
16      we move along.

17               At the rate we are going, it will  
18      probably be well after the Easter break.

19               MR. FREIDIN: Mr. Chairman, my ability to  
20      assess time is not getting better as we go on.

21               THE CHAIRMAN: Well, I think we will  
22      probably be spending a fair bit of time on Panel 10,  
23      given its size and given the nature of the activity.

24               Okay. The last announcement is, is that  
25      we will be rising today at 5:00 and we are suggesting

1 tomorrow, perhaps we start tomorrow at 8:30 because it  
2 will be a short day, until about 1:30 or so.

3                   Also we are giving consideration for the  
4 of the hearing to perhaps starting in the mornings on  
5 the full days at 9:00 instead of 9:30 and breaking  
6 around 5:00 at the end of a day. We are not starting  
7 earlier and adding on time at the end as well, because  
8 it makes a very long day for both the Board, the  
9 witnesses and counsel.

10                  But there doesn't appear to be any  
11 problem with starting at 9:00 in the morning and  
12 perhaps finishing around 5:00 in the evening and we  
13 will all get in a fairly full hearing day.

14                  Any objections?

15                  Mr. Cosman?

16                  MR. COSMAN: No. I was going to say are  
17 you considering it, Mr. Chairman, or is that a  
18 direction to guide us?

19                  THE CHAIRMAN: That is, in effect, I  
20 guess an announcement of future policy. Take it as a  
21 policy guideline, whatever that means. Okay.

22                  Mr. Armstrong?

23                  MR. ARMSTRONG: Thank you, sir.

24                  Q. Now, Mr. Scott, I have had a chance  
25 to look at the silvicultural guide for the spruce

1 working group that you have kindly provided to me and I  
2 think I have my feet on the ground a little bit.

3 Help me with this: Am I correct that if  
4 you have got an area of concern, as far as that  
5 physical land mass is concerned, and if we are dealing  
6 with moose, what you rely on is the Moose Management  
7 Guidelines?

8 MR. SCOTT: A. That is one of the prime  
9 pieces of documents we rely on, but it is not the sole  
10 piece of documentation.

11 Q. Okay. I just want to find out what  
12 kicks in when. Now, am I correct that if it is part of  
13 the land mass that is not designated an area of  
14 concern, it is part of - for normal timbering  
15 operations, that it is the silvicultural guide that  
16 kicks in, as it were?

17 A. I would say the silvicultural guide  
18 applies in both instances.

19 Q. Fine. But the silvicultural guide  
20 gains predominance when we are dealing with a normal  
21 operation land mass?

22 A. See, I have trouble with the word  
23 predominance. The ground rules apply in either  
24 situation. We still want to approach our silvicultural  
25 decisions somewhat the same.

1                   The silvicultural ground rules come with  
2 this document being one of the prime sources of  
3 material that helps orchestrate those silvicultural  
4 ground rules, so those ground rules apply throughout  
5 the forests when we are making timber management  
6 decisions.

7                   Q. All right. Now, I am looking at the  
8 chart area that you have directed me to on page 34, it  
9 spills over the page to 35 in the silvicultural guide  
10 for spruce working group and I see how it works, I  
11 think.

12                  Dealing with selected species, moose, you  
13 describe the habitat. I presume this would be  
14 considered to be normal habitat?

15                  A. Yes, and that would be just a  
16 brief -- very brief description.

17                  Q. Yes. And then you highlight the area  
18 of concern in the top category, loss of winter shelter  
19 and secure cover.

20                  A. Okay. That is not an area of  
21 concern, those are concerns of moose and timber  
22 management.

23                  Q. I am sorry. And that is just a  
24 semantical problem, that I realize I have to be more  
25 disciplined in my terms. So as the heading says:

1       Concern in Timber Management, so we have got loss of  
2       winter shelter and security cover.

3                   So then we have got the next heading:

4       Timber Management Strategies to Maintain/Enhance  
5       Habitat. And we see there set up ideas. Preliminary  
6       to those ideas, is a target set for the "x" number of  
7       moose that are to be in the area that you are dealing  
8       with?

9                   A. I would have to consult with the  
10       wildlife people on that. I know we have wildlife  
11       management units and we manage moose on a wildlife  
12       management unit basis and the boundaries are not  
13       necessarily coincidental but, again, that is a wildlife  
14       management decision.

15                  Q. It isn't addressed in the  
16       silvicultural guide?

17                  A. Not in the silvicultural guide, no.

18                  Q. But isn't that what is guiding your  
19       endeavors in the non-area of concern part of the  
20       endeavor?

21                  A. No, the silvicultural guide is a tool  
22       which helps provide information on the silvicultural  
23       growth characteristics, if you will, of the predominant  
24       tree species within that working group.

25                  In the case of spruce, it provides

1 information on spruce which leads us to the creation of  
2 silvicultural ground rules. If I can -- I might be  
3 able to refer you to a section here in the  
4 silvicultural ground rules themselves on Page VII in  
5 the Forward, on paragraph 2 it states:

6 "Each silvicultural guide provides  
7 a description of the silvicultural  
8 characteristics of the working group  
9 species and describes silvicultural  
10 practices. The guide reflects relevant  
11 literature and research, but equally  
12 important the knowledge and experience of  
13 forestry staff in the management of the  
14 working group in Ontario and elsewhere.  
15 The guides are primarily for use at  
16 the management unit level where they are  
17 intended to be adapted and interpreted to  
18 meet local objectives and conditions. In  
19 particular, they be used by management  
20 foresters as a source of information and  
21 data that, together with local knowledge  
22 and experience, must form the basis for  
23 the development of silvicultural  
24 prescriptions in the timber management  
25 planning process."

1                   Q. Well, would you agree with me when we  
2 go back to page 34: Timber Management Strategies to  
3 Maintain/Enhance Habitat, that if you don't within this  
4 little category set yourself some sort of a population  
5 target, that the rest of it is kind of meaningless?

6                   A. Again, I would have to consult with  
7 the wildlife managers before I wanted to make a  
8 definitive answer, but my understanding is we are  
9 trying to create habitat. Our concern in timber  
10 management is a habitat concern.

11                  Q. All right. Well, you must know  
12 habitat for how many moose then; isn't that important  
13 to know?

14                  A. If I was a wildlife manager - which I  
15 am not, I am managing a wildlife management unit and  
16 clearly this is not within my area of expertise - I  
17 would have that concern. In timber management, the  
18 concern is a habitat concern, as I understand it.

19                  Q. So obviously you have to draw on some  
20 other areas, not just what you have set out in this  
21 guide?

22                  A. That's correct, and that is what I  
23 had indicated, that we would -- this is just a lead  
24 essentially to tell the practising forester that moose  
25 is a concern in the area where spruce grows, these are

1 some of the concerns we have, some of the options, but  
2 apply the Moose Guidelines.

3 And I think in Panel 10 Dr. Eiler would  
4 be more capable of describing the Moose Guidelines and  
5 there relationship in a wildlife management context  
6 than I would be able to provide you information on.

7 Q. I don't mean to disparage what is  
8 here, but it occurs to me if we just focused on what is  
9 here, like for instance, break up of cuts, shape cuts  
10 to limit cover-to-cover distance.

11 You know, if you don't -- if it isn't put  
12 in here, how much distance or break up cuts in what  
13 way, it is meaningless; isn't it?

14 THE CHAIRMAN: Mr. Scott, isn't it the  
15 case - and perhaps you might answer this, Mr.  
16 Straight - that to make these decisions you don't rely  
17 just on the silvicultural guide and what prescriptions  
18 or what information and data is in here, you are using,  
19 as I understand it, the integrated resource management  
20 approach which basically brings in experts from other  
21 fields including the public, as well as, say the  
22 wildlife biologist who would then give the input to say  
23 that, if you are managing a particular specie or  
24 managing a particular area you have to take into  
25 account these other policies including wildlife

1       policies and end up with an integrated resource  
2       decision.

3                   Is that the case, or am I off base?

4                   MR. STRAIGHT: That is basically correct,  
5       Mr. Chairman. And I must admit that I find some of  
6       this fairly frustrating this afternoon.

7                   My particular evidence in general did  
8       deal with introducing the guidelines, the  
9       implementation manuals, specifically those that were  
10      non-silvicultural, and Mr. Scott seems to be called  
11      upon to provide all the answers, even recognizing he  
12      has and has indicated some limited experience in that  
13      particular area.

14                  But I get the feeling Mr. Armstrong is  
15      going into two areas that generally we have touched  
16      upon in cross-examination by Mr. Williams. He wants to  
17      get to the actual decision-making process in timber,  
18      but he also continues to confuse the way in which the  
19      Ministry goes about managing various natural resources.

20                  And if you will recall, one day last week  
21      when I got into the business of how we go about  
22      managing, for example, fisheries that basically we deal  
23      with that as a separate resource management planning  
24      process, that it all essentially fits within the  
25      overall management system that Mr. Douglas presented in

1       Panel 1; that that is tied through the land use  
2       guidelines, basically in terms of an overall  
3       integrating mechanism, and beneath that there are  
4       specific resource management plans.

5                   And when we do a fisheries management  
6       plans, we make the link to the specific guidelines that  
7       we utilize, basically the Timber Management Guidelines  
8       for the Protection of Fish Habitat as one of the -- we  
9       list that mechanism within the timber management --  
10      within the fisheries management plan as a mechanism by  
11      which we go about protecting fish habitat.

12                  And, similarly, within the timber  
13       management planning system we very specifically use a  
14       number of the guidelines that we have developed here  
15       and, in this particular instance, right up front when  
16       we enter into that timber management planning process  
17       we would be using - in your case, you have been  
18       alluding to the Moose Guidelines, for example - we  
19       would be using the Timber Management Guidelines for the  
20       Provision of Moose Habitat.

21                  And those guidelines, as I understand  
22       them - and again Mr. Eiler is the expert as Mr. Scott  
23       referred to and you will be going into detail in them  
24       on Panel 10 - those Guidelines for Moose are intended  
25       to enhance moose habitat. That seems to be a point

1 everybody seems to be missing here when we keep talking  
2 in general about how all these tradeoffs and whatnot,  
3 but generally the guidelines are directed to enhance.

4 As Mr. Scott mentioned, in the  
5 silvicultural guidelines, it is in the spirit of IRM  
6 that essentially there be wildlife references within  
7 those specific guidelines to help create that sense of  
8 integrated resource management.

9 And there was a clear reference in that  
10 table to refer back to the specific implementation  
11 manuals, the specific guidelines you need to help in  
12 making wildlife decisions.

13 I hope that provides some clarification,  
14 sir.

15 MR. ARMSTRONG: Mr. Chairman, should I be  
16 questioning Mr. Straight now or Mr. Scott?

17 THE CHAIRMAN: Well, either one, but I  
18 guess the difficulty the Board is having is, is that  
19 because a lot of the evidence that has come in already  
20 to this point, it is apparent I think to the Board that  
21 more than just this document would be utilized in terms  
22 of protecting wildlife considerations or looking at  
23 wildlife or other resource values in terms of a timber  
24 management plan.

25 And because there is certain reference in

1 here to wildlife, I think as Mr. Straight has tried to  
2 indicate, that doesn't mean this governs the treatment  
3 of wildlife in a timber management plan solely, there  
4 is a lot of other things that have occurred and will  
5 occur in the process.

6 And so I think what the Board is finding  
7 is that some of your questions of Mr. Scott are  
8 directed towards asking him whether this is -- you  
9 know, what is on pages 34 and 35 is the information  
10 that the Ministry relies upon in terms of managing  
11 moose, for example. You know, I think the Board has  
12 heard a lot, that that is not the case. There is  
13 references in here, but there are specific guidelines  
14 and specific expertise that is used with respect to  
15 some of the other resources.

16 I guess what we are finding a little  
17 confusing, Mr. Armstrong, is where you are going with  
18 this particular line of questioning, exactly.

19 MR. ARMSTRONG: Well, Mr. Chairman, I  
20 will tell you where I was coming from and perhaps I may  
21 direct where I was going. Where I was coming from was  
22 page 46 of the EA, 146, line 22 and following it says:

23 "The silvicultural ground rules describe  
24 the range of silvicultural practices  
25 which can achieve the management

1                   objectives for the management unit and  
2                   are designed to ensure that the timber  
3                   resource itself and related soils and  
4                   site characteristics are protected. The  
5                   Implementation of any of the practices  
6                   described in the silvicultural  
7                   ground rules is expected to result in  
8                   minimal and acceptable environmental  
9                   effects because no particular resource  
10                  features, lands use or values which could  
11                  be negatively affected have been  
12                  identified in the land area in which they  
13                  apply ."

14                  Now, my question was of Mr. Scott, or Mr. Straight:  
15                  Isn't that implying right here in the EA that these  
16                  silvicultural guides that I have been given, or this  
17                  guide in particular, is the document that does that  
18                  protecting?

19                  THE CHAIRMAN: I would suggest it might  
20                  be one of the documents, but surely there is more  
21                  documents that the proponent relies upon than just the  
22                  silvicultural guides, at least we have heard of more  
23                  documentation and other tools.

24                  MR. STRAIGHT: Mr. Chairman, just one  
25                  point in terms of the Moose Guidelines themselves. If

1       you read the specific direction in there as well there  
2       is a very clear range component which deals with the  
3       overall land mass in terms of setting out the kind of  
4       characteristics to be achieved. And there is also a  
5       very specific direction relative to some of those types  
6       of areas of concern which you identified before, the  
7       specific moose licks, if you will, the wintering areas,  
8       the calving areas.

9                   And that may be one source of confusion,  
10          but there is very much a broad range, a broad timber  
11          management direction that is contained in part of the  
12          Moose Guidelines and that may help to -- which is  
13          another one of those directions, if you will, that  
14          refers to how the entire area should be looked at.

15                  THE CHAIRMAN: I guess what Mr. Armstrong  
16          is saying, that this particular sentence to which he  
17          just alluded -- he is asking: Does that not imply that  
18          all of the considerations for some of these other  
19          resource values are or will be described or contained  
20          in the silvicultural guidelines, or ground rules,  
21          rather?

22                  MR. STRAIGHT: My understanding of what  
23          the Ministry is saying in general is, is that we feel  
24          capable, using the kinds of information described in  
25          7 -- in Panel 7, that utilizing the various directional

1       types of tools that we have described in this panel,  
2       plus the overall policies and regulations which the  
3       Ministry administers, that through that process we feel  
4       generally comfortable, in concert with public  
5       consultation, in identifying those specific resource  
6       values which are at some potential risk from timber  
7       management.

8                   And, in general, we take those values and  
9       we subject them to that detailed area of concern  
10      planning process, which I think Mr. Freidin has  
11      referred to, will be part of Panel 15. And by going  
12      about timber management in that way, the Ministry feels  
13      that environmental impacts are prevented or minimized  
14      to a reasonable degree.

15                  Generally speaking, the silvicultural  
16      guidelines, it's my understanding, applying to all  
17      operations across the unit in the context of protecting  
18      the environmental integrity of the sites, if I can  
19      loosely use that word, plus the timber values  
20      themselves.

21                  The only other - I shouldn't say the only  
22      other, I am not sure without spending some time  
23      thinking about it - but the other aspect of provincial  
24      guidelines which apply in the sense to the whole unit,  
25      is that context of the timber management guidelines to

1 provide moose habitat would deal with the range  
2 component.

3 MR. SCOTT: If I can add too, in the  
4 sentence it says they are designed to do that and it  
5 doesn't preclude using other information and I know, as  
6 a forester making silvicultural decisions, having  
7 guides to work with in the past, I have used those  
8 guides and I have used scientific literature and all  
9 those other things we described in the tools.

10 But that doesn't mean that the guides  
11 weren't designed for the purpose of giving me the best  
12 information as a forester to make good, sound  
13 environmental silvicultural decisions.

14 MR. ARMSTRONG: Q. I appreciate that,  
15 but I come back to the fact that: Isn't the inference  
16 there the inference that I have talked about. And I  
17 may not be the only one that needs some discipline in  
18 my thinking on this, because if that inference has  
19 crept in, even to your own process, isn't that the  
20 reason that comprehensive environmental planning is  
21 only required in the areas of concern, because all the  
22 other areas are covered by the silvicultural guides?

23 MR. STRAIGHT: A. I would iterate that  
24 the inference is there in the sense - as I had  
25 previously explained it - my understanding, having

1        talked to some of the individuals who will be talking  
2        to you about this later and they, again as we  
3        continually reiterate, are the experts in the  
4        Ministry's evidence on this.

5              But basically my understanding is, is  
6        that environmental protection will occur by the mode in  
7        the manner in which I expressed that, generally  
8        speaking, the environmental integrity of sites, if you  
9        you will, will be protected through the application  
10       generally of silvicultural guidelines in concert with  
11       silvicultural ground rules and that we feel comfortable  
12       that we can identify those areas of other resource  
13       values or of interest to other stakeholders and protect  
14       their concerns and the environment, in general, by  
15       applying the area of concern planning process in  
16       conjunction with those tools which we entered as part  
17       of the evidence of this panel.

18              Q. Now, did I hear you say that you also  
19        use wildlife ground rules?

20              A. No, meant mentioned that we use  
21        Timber Management Guidelines for the Provision of Moose  
22        Habitat. I don't believe I mentioned wildlife ground  
23        rules. If I did, it was in error, but I don't believe  
24        I did.

25              Q. Well, can you appreciate the

1 difficulty that I am having with -- as I understand  
2 this to be an environmental assessment reducing  
3 something to a system, if you will, when the constant  
4 response that I get is: Well, we will handle that  
5 problem when we go and meet with all our experts and we  
6 will come up with a decision?

7                   A. I believe I can appreciate some of  
8 your frustration, sir, and I guess I similarly share  
9 your frustration because I don't feel that you are  
10 going to have a clear picture of how the entire process  
11 works until you have a clear understanding of the  
12 actual assessment of effects on the natural environment  
13 that you will see in Panels 10 through 14.

14                   Whereas I think Mr. Freidin indicated,  
15 you are going to see one of the primary authors of the  
16 Timber Management Guidelines for the Protection of  
17 Fisheries Habitat who can provide you with very  
18 specific information on how they are applied, you will  
19 see the Ministry's assessment of how there are  
20 potential effects on the aquatic environment and the  
21 manners in which they can be dealt with.

22                   And similarly you will see that for the  
23 terrestrial environment in which there will be moose,  
24 wildlife experts; you will see it for the  
25 socio-economic environment, and it is within the

1       context of understanding those effects and the nature  
2       of those effects and the way in which the Ministry is  
3       going about preventing, minimizing and mitigating those  
4       effects that will finally being culminated in 15, if  
5       you will.

6                  That my frustration - and I share the  
7       same frustration because I sit here and I have read  
8       through some of the transcripts and I don't feel our  
9       message is adequately getting across, but in many ways  
10      it isn't adequately getting across because you don't  
11      have enough of a foundation, in my assessment, to reach  
12      a reasonable understanding of the process.

13                 Q. Well, would you understand the  
14       situation to be this - because this is what I am  
15       beginning to understand - that as far as your  
16       evidence-in-chief, the evidence-in-chief of this panel,  
17       it was their intention to come and outline guidelines,  
18       principally qualifications, and to assure us all that  
19       the people making the decisions were properly  
20       qualified, and then really not want to be  
21       cross-examined on anything?

22                 A. I think we indicated right at the  
23       start - and at the request of the Chairman - that we  
24       would do our best, within the bounds of our knowledge  
25       of the entire process, to be as informative as we could

1 relative to questions and, to so some degree, jumping a  
2 bit ahead.

3 We also made it very clear in our  
4 evidence-in-chief - and I don't know if you have our  
5 basic arrow diagrams that appears on page 85 and I can  
6 refer generally to the colour scheme - that basically  
7 you will see that in Panel 1 they talked about those  
8 pre-existing obligations that are at the top, that our  
9 specific task here was to provide additional  
10 information on those specific decision-making tools  
11 which assist in reaching decisions and those included  
12 those six subjects that you see outlined in blue from  
13 scientific literature to implementation manuals.

14 Q. I don't have it in colour.

15 A. I am sorry.

16 MR. SCOTT: A. I have a copy. (handed)

17 MR. ARMSTRONG: Thank you.

18 MR. STRAIGHT: We tried to make it clear,  
19 to reiterate, now that you have it, that we were in a  
20 sense a -- it was a good panel to start up with after  
21 the break because, to some degree, we were going to try  
22 and integrate some of the earlier stuff in an  
23 organizational sense and give a sense of direction  
24 where we were going.

25 The area in yellow at the top was

1       presented in Panel 1 and that represented a lot of the  
2       pre-existing obligations - in many cases, the givens  
3       that you referred to earlier in your cross-examination -  
4       that enter into the planning process.

5                 The blue areas are those specific types of  
6       tools that the Ministry uses to assist staff in making  
7       decisions and the particular arrow that you see  
8       outlined in red that leads to decisions, is the area of  
9       concern planning process that will be discussed in 15.

10               And, so in a sense, we were prepared to  
11       discuss generally the areas in blue in terms of an  
12       organizational overview sense and we indicated that, to  
13       the degree that we could provide understanding in terms  
14       of some other application, we would do that. But  
15       clearly the actual decision-making process, if you  
16       will, and where things like tradeoffs would be  
17       considered, that sort of thing, would be described in  
18       Panel 15.

19               MR. ARMSTRONG: If I can just have a  
20       second.

21               MS. BLASTORAH: Mr. Chairman, just for  
22       the record, we should indicate that was Exhibit 396  
23       that Mr. Straight was referring to.

24               THE CHAIRMAN: Thank you.

25               MR. ARMSTRONG: Q. I don't know whether

1       this is in the decision-making process or not now, but  
2       I would like to get some idea as to how much time is  
3       involved in working toward the decision-making process;  
4       how much staff time and person days, if you can do  
5       that.

6                    MR. STRAIGHT: A. Do you have a specific  
7       example, sir?

8                    Q. Well, let's rely on the experience of  
9       Mr. Scott.

10                  MR. SCOTT: A. Again because these areas  
11       of concern are so much case-by-case it is very  
12       difficult to come up with man hours or man days and  
13       there would be a wide range in time available.

14                  If we had all the information and we knew  
15       that our concern, for example, was within the fisheries  
16       guidelines, we had a fisheries concern that was a  
17       spawning area and there were going to be -- there were  
18       stands eligible for harvest. By an application of the  
19       fisheries guidelines, we would protect that resource  
20       and it would be a fairly easy decision.

21                  I don't know how much man hours went into  
22       that fisheries guidelines, but from my standpoint as a  
23       timber supervisor, to help orchestrate the creation of  
24       a timber management plan there would not be very much  
25       time involved in making that decision and applying that

1 area of concern.

2                 If we have a situation where we may have a  
3 tourist outfitter impacted and raise a concern about  
4 timber management operations, we may have several  
5 meetings with them, there may be four or five Ministry  
6 staff involved at regular meetings that can occur over  
7 a number of months before we come to some sort of  
8 decision and there may be many, many man days tied up,  
9 all of which would be documented according to Appendix  
10 1 and everybody that reads that timber management plan  
11 would have that supplementary documentation available  
12 to them and be able to see.

13                 And, again, on a case-by case-basis, you  
14 can have minutes versus many, many man days in range.

15                 Q. Well, would it be fair of me to  
16 suggest that to the extent that you worked through the  
17 process in your Bright Sands experience, that the  
18 forester's side of it vastly outweighs the time  
19 expended by fish and wildlife staff?

20                 MR. FREIDIN: He was only there for the  
21 first two or three months, I think. Three or four  
22 months. He didn't work through the whole process, that  
23 was his evidence.

24                 MR. ARMSTRONG: Yes. Mr. Chairman,  
25 that's why I prefaced the question with: To the extent

1           that he was there.

2                   MR. SCOTT: Okay, do you want to give the  
3                   question again. And are you talking in terms of  
4                   creation of the production of the timber management  
5                   plan or dealing with areas of concern processes?

6                   MR. ARMSTRONG: Q. Well, the timber  
7                   management plan and you have given me the impression  
8                   throughout that integrated resource management is  
9                   always part of that; isn't that true?

10                  MR. SCOTT: A. That's correct.

11                  Q. And that integration mustn't always  
12                  involve some input from fish and wildlife persons, I  
13                  presume.

14                  A. My evidence was that we had fish and  
15                  wildlife people on the planning team.

16                  Q. And I suggest to you that if it was  
17                  equal, or the fish and wildlife end of it was taking  
18                  the lion's share, you would have been telling me that  
19                  the first time I asked the question.

20                  A. When you write a timber management  
21                  plan and we utilize the tools available to us and  
22                  following through the steps of creation of that timber  
23                  management plan, in terms of man hours for that  
24                  specific activity, we don't measure man hours that way  
25                  and we don't break it down.

1                   However, we do have pre-existing  
2 obligations and the wildlife people bring to the table  
3 a certain wildlife expertise that I can only assume is  
4 backed up in terms of man hours of work and we  
5 integrate it together as we produce that plan.

6                   So we don't measure things in the way  
7 that you phrased the question.

8                   Q. You can't tell me?

9                   A. That's correct.

10                  Q. Okay. I believe Mr. Straight  
11 mentioned them. I think we do have district fisheries  
12 management plans; is that right?

13                  MR. STRAIGHT: A. I am familiar with the  
14 ones in northwestern region and there we do have  
15 fisheries management plans.

16                  I am not sure of the exact status of them  
17 in the rest of the province, although I believe that  
18 generally that statement is correct, they are either  
19 done or in preparation, but in northwestern region we  
20 do.

21                  Q. But no district wildlife management  
22 plans?

23                  A. We don't have, if you will, at this  
24 point in time district wildlife management plans to my  
25 knowledge. There may be areas where there could be a

1 specific wildlife management plan for an area.

2 Q. And would the reason for that general  
3 situation be that the wildlife management plan is so  
4 interrelated with the timber management plan in most of  
5 the province that it is impractical to separate the  
6 two?

7 A. No, I don't believe that's the reason  
8 at all. Part of it is simply the Ministry's --  
9 actually, in a sense we are working our way through the  
10 whole business of this resource management planning  
11 context, following up with -- following up from the  
12 District Land Use Guidelines.

13 You can appreciate that there is a fair  
14 amount of effort involved in doing a credible and good  
15 job of putting those things together. To some degree,  
16 we are talking about a function of pure workload and  
17 staffing and priorities within the Ministry.

18 To say that there are no wildlife  
19 management plans, though, should not be interpreted to  
20 mean that there aren't wildlife management objectives  
21 and that there aren't, if you will, strategies worked  
22 out within the district's framework for delivering  
23 wildlife objectives.

24 I am aware - and you may be aware - that  
25 we have, for example, moose objectives. Now, we have

1 moose targets in terms of wildlife management plans.  
2 That particular evidence was presented in Panel 1.

3                   The wildlife -- the people that are  
4 responsible for wildlife management units are review  
5 the strategies and the ways by which they can produce  
6 those particular targets in terms of implementing, for  
7 example, the Timber Management Guidelines for the  
8 Provision of Moose Habitat, looking at annually the  
9 business of harvest control in terms of the tag  
10 allocation system for moose.

11                  And so the absence of a plan should not  
12 necessarily mean that there is an absence of directive  
13 management strategies that are geared towards producing  
14 objectives.

15                  Q. I take it then you would tell me as  
16 well that the existence of comprehensive plans with  
17 respect to timber and the absence of management plans  
18 with respect to the wildlife doesn't reflect the  
19 priority of your Ministry?

20                  A. I would agree with that, sir, it does  
21 not reflect the difference in priorities of the  
22 Ministry because we choose -- again, it is --  
23 specifically with wildlife and moose, I tried to  
24 emphasize the comment earlier, that the guidelines are  
25 actually developed to provide moose habitat and this is

1       in part in keeping with the Ministry's overall intent  
2       to meet those moose objectives, the moose policy, if  
3       you will, that was approved by Cabinet.

4                   And, again, Mr. Eiler in Panel 10 will be  
5       able to talk to you not only about moose, but  
6       explicitly with regard to effects on wildlife generally  
7       and our approach to wildlife generally, relative to  
8       this particular application before the Environmental  
9       Assessment Board.

10                  Q. Now, Mr. Straight, you weren't  
11       prepared to agree with me, and that's fine, when I  
12       posed the question that: Why there wasn't wildlife  
13       management plans; it may have been because some  
14       inextricably entwined with timber management plans, and  
15       I went on to say, in most of the province, and maybe  
16       that was what you found disagreeable.

17                  If I rephrased that to say the  
18       northwestern part of the province, could you find it  
19       more easy to accept?

20                  A. Perhaps you can rephrase that. Or,  
21       just -- I'm sorry, I missed the first part again.

22                  Q. If I posed the same question that  
23       there isn't wildlife management plans in the  
24       northwestern part of the province it's because in that  
25       part of the province that concern is inextricably

1       entwined with and covered by the timber management  
2       plan?

3                   A. No, I don't believe I had say that.

4                   Q. No, if I asked it that way. Because  
5       I had asked earlier saying: If this was covering the  
6       whole province is that the reason and let me refine it  
7       down to the northwest.

8                   A. I think what I tried to indicate is  
9       is that we have wildlife management unit boundaries, we  
10      also have timber management units. Those two  
11      boundaries, as you are aware are not the same. m,

12                  We have a specific Cabinet policy that  
13      directs or that has approved a course of action to meet  
14      a specific moose target. A wildlife biologist in  
15      trying to reach that target don't have a formal plan  
16      written on paper, but I did indicate that they do  
17      review the progress towards that target, they do review  
18      those measures which are required to achieve those  
19      population -- moose population increases, and they do  
20      that and they develop management strategies or  
21      management techniques, if you will, to get to that  
22      particular point.

23                  Two of the primary ones is the moose  
24      allocation, or the tag allocation process whereby they  
25      annually sit down and review the status of the

1 population in the unit and they review the number of  
2 moose tags, if you will, that can be allocated for  
3 recreational hunting.

4 They also utilize the guidelines, Timber  
5 Management Guidelines for Provision of Moose Habitat to  
6 look towards both not only the short-term but  
7 particularly the long-term improvement of habitat to  
8 support increased moose populations.

9 So we look at the process separately. We  
10 look at timber management planning within its  
11 boundaries and for its purposes and we specifically  
12 look at the need to go in specific directions to meet  
13 wildlife objectives and we make the linkages between the  
14 two, in this particular context, with the Timber  
15 Management Guidelines for the Provision of Moose  
16 Habitat.

17 So that when we go about conducting  
18 timber management, the way in which we conduct is  
19 consistent with those guidelines to provide moose  
20 habitat and the thrust or the intention behind doing  
21 that is to provide increased habitat for moose.

22 Q. So the planning processes remain  
23 separate, or try to be?

24 A. The planning processes are separate,  
25 yes.

1                   Q. Well, would you say it is true that  
2        forest managers are the main manipulators of habitat in  
3        the northwest?

4                   A. For wildlife?

5                   Q. Mm-hmm

6                   A. Actually it may well be, if we looked  
7        at the situation, we would finde out that fire was the  
8        main manipulator of habitat, but I would say in terms  
9        of man, certainly man-created or habitat changes, it  
10      would be the timber industry, yes.

11                  Q. Well, I was looking at page 131 of  
12       the witness statement -- I just lifted that statement  
13       from that page, at the top under: Integrated Resource  
14       Management Programs, 131.

15                  A. Yes.

16                  Q. And it says here:

17                   "Forest managers are the main  
18        manipulators of the habitat in the  
19        northwest."

20                  A. And I agreed with you, that they  
21        are -- that the timber harvesting activity, as an  
22        anthropomorphic form of action is the main habitat  
23        manipulator. But I did indicate that natural forces  
24        like fire can also be very significant, and I don't  
25        have the facts before me, but that is another form of

1                   habitat manipulation; that's a natural one.

2                   Q. I just want to get this clear, your  
3                   evidence is that you agreed with me when I asked that  
4                   question?

5                   A. I agree that timber management is the  
6                   prime man-induced manipulator of habitat, that's  
7                   correct.

8                   MR. ARMSTRONG: If I can just have a  
9                   second.

10                  Q. Now, I am a little bit concerned with  
11                  the separation of the planning as you have outlined it  
12                  to me, because I can't quite get how that's shaking  
13                  hands within integrated resource management because it  
14                  strikes me that the forester could put forward a  
15                  cutting plan and over in his corner the wildlife  
16                  manager could put forward a habitat and hunting  
17                  opportunity plan, and they are planning away in  
18                  separate directions, they can't have them both.

19                  MR. STRAIGHT: A. And that's the reason  
20                  why we have those kinds of team concepts to planning,  
21                  if you will.

22                  So just as the wildlife people sit on the  
23                  timber management plans, so do the foresters when it  
24                  comes down to that, have an opportunity for input and  
25                  review of wildlife plans and we do that with -- that's

1       one of the integrating mechanisms we use.

2                   Q. When the crunch comes in the  
3       decision-making time what, a consensus is achieved?

4                   A. I think Mr. Scott iterated, and  
5       certainly I said it before. We find in most cases that  
6       consensus can be achieved.

7                   We find exceptional cases where it can't  
8       and in those cases where it can't, normally in terms of  
9       timber management planning, for example, the regional  
10      director will be called upon to make a decision and he  
11      will do that with an understanding of the environmental  
12      implications as expressed to him by professional staff  
13      of the results of those particular tradeoffs.

14                  Q. Now, I won't pursue that because we  
15      have been over that.

16                  A. And I did provide some examples of  
17      that in earlier cross-examination as well.

18                  Q. Now, I know I tend to keep coming  
19      back to this, and I have talked about the FRI, the...

20                  A. Forest resources inventory.

21                  Q. Right. And isn't it true to say that  
22      there isn't a comparable tool to be used on the  
23      wildlife management side?

24                  A. Well, a comparable tool in what  
25      context? Actually -- on the wildlife side?

1                   Q. Right.

2                   A. You see - and I am not a moose  
3 biologist but I do have general understanding - our  
4 moose biologists use the FRI; it tells them a lot about  
5 wildlife habitat. That, in context with aerial  
6 photographs which are commonly produced as part of the  
7 timber management activity itself, tend to be extremely  
8 valuable tools to the wildlife manager as well. They  
9 are both dealing, in many ways, with that same turf of  
10 ground.

11                  Q. But when we are looking for consensus  
12 in that meeting that we have been sort of visualizing  
13 and, as I say, the crunch comes, doesn't that put the  
14 wildlife manager at something of a disadvantage?

15                  A. Well, let me give you some of the  
16 benefits of my particular experience in the northwest  
17 because I think it may tend to -- and I think I have  
18 already done this to some degree, Mr. Chairman, I don't  
19 know. It is on the record. Should I do that or not?  
20 But I think it may help Mr. Armstrong in terms of this  
21 particular issue?

22                  Q. Well, perhaps --

23                  THE CHAIRMAN: Sorry?

24                  MR. ARMSTRONG: I didn't mean to  
25 interrupt, but we are not here to help me.

1                   THE CHAIRMAN: Why don't you allude to  
2 perhaps an example or two of what you have been  
3 through, if you can do it concisely--

4                   MR. STRAIGHT: Very quickly.

5                   THE CHAIRMAN: --to illustrate the point  
6 you are trying to make.

7                   MR. STRAIGHT: Well, the point I am  
8 trying to make is that the guidelines apply -- when I  
9 interpret them, apply some very specific direction.  
10 They indicate to you on a range basis, the nature of  
11 the cut size, its distribution, its relationship to  
12 shelter patches, if you will, and an overview. It also  
13 deals very specifically with certain specific features.

14                  When my regional director approves a  
15 timber management plan he asks the moose biologist  
16 whether indeed those guidelines have been met on a unit  
17 and he wants his input before he approves that plan.

18                  A case that I used where there was a  
19 specific situation, where there was a tradeoff  
20 required - and its referenced in the transcript - was  
21 with regard to a budworm area that was heavily infested  
22 and the company made the request that that particular  
23 area be cut because they felt it was just going to die  
24 anyway and, in the context that it was going to die,  
25 the cut would exceed the guidelines. In that specific

1 instance, the regional director approved the deviation  
2 from the guidelines.

3 If you read those guidelines as well you  
4 will see there is very specific exception context in  
5 there where, if a district level wants to make  
6 exceptions to the guidelines, they must specifically  
7 get the regional director's approval, and if regions  
8 want to make broader scale or general exceptions to the  
9 guidelines, they will have to get the approval of the  
10 assistant deputy minister from northern Ontario.

11 So there are some very specific processes  
12 that are in place within those guidelines that come to  
13 bear to ensure that the guidelines are adequately  
14 delivered.

15 MR. ARMSTRONG: Q. Could you tell me,  
16 please, where this modifications requirement is in the  
17 guidelines?

18 MR. STRAIGHT: A. The exception clause,  
19 is that the one you are referring to?

20 Q. Yes.

21 A. It says in the document, Timber  
22 Management Guidelines for Provision of Moose Habitat,  
23 the second -- on the back of the first green page,  
24 under the heading: Application of Guidelines, it says  
25 in the last paragraph:

1                   "if cuts are proposed which exceed the  
2                   general guidelines over large areas the  
3                   district must receive the regional  
4                   director's approval prior to agreeing to  
5                   the plan. If a region intends to  
6                   routinely sanction deviations from the  
7                   guidelines, the assistant deputy  
8                   minister's approval must be obtained  
9                   before approving the plans."

10                  And I believe, in my review of that particular  
11                  document, there is another section in there as well  
12                  that deals with that.

13                  MS. BLASTORAH: That is Exhibit 310, Mr.  
14                  Chairman.

15                  MR. STRAIGHT: Yes, and it is referred to  
16                  again on page 10, Application of the Guidelines, in a  
17                  similar fashion.

18                  MR. ARMSTRONG: Q. All right. You  
19                  talked about the biologist working on a unit and he  
20                  would have to come up with a management plan for the  
21                  moose in that unit. That was your example, if I am  
22                  fairly recalling it.

23                  MR. STRAIGHT: A. What I said was the  
24                  moose management biologist would be reviewing the  
25                  progress towards achievement of objectives and would be

1 looking at the strategies, the management techniques  
2 that would be required to get there, and I specifically  
3 gave you two examples of the things that he would use.

4 Q. That is unit-by-unit?

5 A. That is on a wildlife management unit  
6 by wildlife management unit basis, yes.

7 Q. Now, if the biologist can do it on a  
8 unit-by-unit basis in some systematized way, couldn't  
9 there be formulated a more broad system to make those  
10 decisions?

11 A. Oh, I presume there are a lot of  
12 permutations and combinations of systems that might be  
13 used. This is the one the Ministry has chosen.

14 Q. But doesn't that put a greater onus  
15 on the wildlife management biologist than it does on a  
16 forester who has got an overall broader plan to key  
17 back to?

18 A. My interpretation of the guidelines  
19 is that the moose biologist has a reasonably  
20 straightforward role to play here. The forester in  
21 terms of all of those components of the timber  
22 management plan, there is a sizeable and a significant  
23 effort that is required there, which I think will come  
24 out clearly when you look at Panel 15.

25 The biologists that I have dealt with in

1       the planning process feel very comfortable at being  
2       able to deal in this manner with the issue of  
3       effects -- potential effects on wildlife as a result of  
4       timber management.

5                    MR. COSMAN: Mr. Chairman, I am advised  
6       that is a timber management planning meeting going on  
7       down the hall.

8                    THE CHAIRMAN: I take it eventually  
9       consensus will be reached?

10                  MR. COSMAN: Apparently not at the  
11      moment.

12                  MR. FREIDIN: When the guidelines...

13                  MR. ARMSTRONG: Q. Well, this process of  
14      objectives for the timber manager and which I  
15      appreciate we have covered a little bit, we have been  
16      talking about.

17                  But I wonder, Mr. Scott, in your  
18      understanding, is it through this step that, you know,  
19      the forester has got a specific, consistent, feasible  
20      quantified, target-linked framework to fit his work  
21      into and then he goes from there?

22                  MR. SCOTT: A. The forester has a timber  
23      management planning process to follow and once the plan  
24      is created he has got a plan to work from -- he or she  
25      has the plan to work from. Is that what you are trying

1 to indicate?

2 Q. Well, let's go back. I have been  
3 advised that there is a forest management plan.

4 A. No, there is a timber management  
5 plan.

6 Q. A timber management plan, and  
7 whatever the individual forester has to do in a  
8 particular area, he fits into that?

9 A. I am not quite sure of the context  
10 what you mean. The forester still has to make sure  
11 that that timber management planning gets carried out.  
12 If that is what you mean, yes.

13 Q. All right. And, for instance, a  
14 volume of wood to be removed, is one of the components?

15 A. Correct.

16 Q. And that is a quantifiable aspect?

17 A. Yes.

18 Q. Well, is there anything quantifiable  
19 in what the wildlife manager is supposed to accomplish  
20 in a wildlife management plan?

21 A. Just going by what Mr. Straight just  
22 said, there obviously is some concern of population and  
23 they obviously have targets for moose and wildlife  
24 species. And I would just go back to his testimony  
25 earlier suggested, yes, that is the case, unless Mr.

1       Straight you can correct me.

2                    MR. STRAIGHT: A. Well, there are no  
3                    targets for certain species. Moose is the one that I  
4                    did indicate and we are in the process of -- if you go  
5                    back to the guidelines themselves, the Land Use  
6                    Guidelines, and there are only specific targets  
7                    identified for certain species.

8                    Moose was one, I believe the beaver as a  
9                    furbearer was another and I believe there is another.  
10                  But at this point in time I can't honestly answer that,  
11                  that might provide some more information.

12                  Q. Well, in the timber management plan,  
13                  the wildlife individual's input doesn't have a  
14                  quantifiable target either there as to wildlife?

15                  A. No, that's correct, there is no  
16                  specific wildlife target in that timber management  
17                  plan.

18                  Q. And so isn't it true then that, as a  
19                  result of the absence of such a site-specific  
20                  objective, wildlife biologists are not provided with  
21                  the same decision support tools at this level as  
22                  foresters?

23                  A. Well then, again, I would go back to  
24                  my reference, sir, to how my regional director goes  
25                  about doing business and my experience is, is that the

1       Ministry provides protection for moose - and you will  
2       find out in 10 for other species of wildlife - through  
3       the application of the Timber Management Guidelines for  
4       the Provision of Moose Habitat.

5                   And, in so doing that, the Ministry feels  
6       that we are dealing in a reasonable manner with the  
7       issue of wildlife habitat, in fact, in terms of moose  
8       we expect to increase or provide/enhance the habitat  
9       for moose through the application of the guidelines.

10                  Q. Well, that is interesting. Mr.  
11       Scott, with greatest respect to Mr. Straight, I didn't  
12       hear the answer to my question. I wonder if you would  
13       give it a try.

14                  A. Could you repeat the question?

15                  Q. As a result of the absence of such  
16       site-specific objectives, wildlife biologists are not  
17       provided with the same decision support tools at this  
18       level as the foresters.

19                  Yes or no?

20                  MR. SCOTT: A. My belief is that the  
21       same decision support tools are available to the  
22       wildlife biologist. They have the guidelines, they  
23       have availability of scientific information.

24                  Q. He has got no quantifiable target, we  
25       have established that; isn't that right?

1                   A. I don't believe we established that,  
2 no.

3                   Q. Isn't that what Mr. Straight just  
4 told us?

5                   MR. STRAIGHT: A. I said he has no  
6 target in the particular timber management plan that  
7 has been quantified, that's correct.

8                   I did not indicate he did not have a  
9 wildlife management objective on an overall wildlife  
10 management unit basis that he should be meeting, and he  
11 does that by aligning management strategies,  
12 particularly application of guidelines, and he uses  
13 quota control mechanisms in terms of tag allocations,  
14 estimating populations and projecting levels of  
15 sustainable harvest and allocating tags, if you will,  
16 the hunttable portion on that particular basis.

17                  But no, there is not to my knowledge a  
18 specific quantified target on a wild -- on a timber  
19 management unit for wildlife.

20                  Q. And all I was trying to establish was  
21 that there is a difference.

22                  A. But you indicated that there may be a  
23 difference and that was to the disadvantage of the  
24 wildlife biologist, and my perception is that our  
25 wildlife biologists feel very comfortable using the

1 guidelines to provide for moose habitat.

2 THE CHAIRMAN: Mr. Armstrong, again, I  
3 don't want to interrupt your line of questioning, but I  
4 am not sure we are making any progress in terms of you  
5 obtaining the answer you would like to obtain from the  
6 witnesses.

7 And that is: They have indicated that  
8 there are various tools used by wildlife managers and  
9 the foresters; they may not be the same tools in every  
10 case, they may not include quantifiable targets within  
11 the timber management planning process vis-a-vis  
12 wildlife, but you have also had the evidence of Mr.  
13 Straight, that notwithstanding that, the wildlife  
14 managers feel that they are not prejudiced or at  
15 disadvantaged in terms of managing for wildlife.

16 And beyond that position by the Ministry  
17 and your position that might be to the contrary, I  
18 don't know if asking the question in other ways is  
19 going to produce any different answers.

20 You may want to call evidence of your own  
21 at some point to contradict, in effect, what these  
22 witnesses are saying.

23 MR. ARMSTRONG: Could I just have a  
24 moment?

25 Q. Now, we have talked at some length

1       about professional qualifications and judgment on any  
2       given issue. Now, I see in the witness statement - I  
3       think my notes - I believe it is a report, I have the  
4       ESSA Workshop Report:

5                 "Directed at attempting to formalize the  
6                 professional judgment process so that..."

7       In their words:

8                 "...rigor could be introduced into the  
9                 discussion of effects."

10      Now, it is obviously impossible to hold one of these  
11     workshops every time professional judgment is used  
12     because of the implicit nature of the professional  
13     judgment approach.

14                 Mr. Scott, would you agree with me that  
15     bias is more easily introduced relying on that  
16     approach?

17                 MR. SCOTT: A. Again, if you can give me  
18     a context? I am just not sure I understand your  
19     question. Bias is more easily introduced when...if you  
20     can fill in the rest.

21                 Q. When you have an exceptionally high  
22     component of professional judgment and lesser  
23     ministerial guideline to blend in with it?

24                 A. That is a difficult question to  
25     answer because I am not exactly sure how you mean bias.

1 I believe there is the potential for bias to creep in.

2 Q. We have got two components, I am  
3 given to understand, professional qualifications plus  
4 ministerial guidelines equals a decision.

5 A. No, I don't think that is what we  
6 have, and if we come back to the decision-making arrow  
7 in the area of concern planning process, I don't think  
8 that is the...

9 Q. I oversimplified. Those are two  
10 areas where we are given to understand are supposed to  
11 blend as tools in the decision-making process?

12 A. Yes.

13 Q. Two plus two equals four, those two  
14 components blend and equal something knowable; right?

15 A. I agree that 2 plus 2 equals 4.

16 Q. All right. Well...

17 A. They are additive.

18 Q. That is good.

19 THE CHAIRMAN: Think about that, it is a  
20 trick question.

21 MR. STRAIGHT: After losing to a  
22 six-year-old, I don't doubt it.

23 MR. ARMSTRONG: Q. Now, if you removed  
24 the quantitative aspect of that equation and said: A  
25 little bit plus a little bit equals a lot, can you see

1       where bias could creep in in your judgmental aspect of  
2       what a little bit is?

3                    MR. SCOTT: A. I believe there is a  
4       potential for bias to come into decision-making, there  
5       is no doubt about that in my mind.

6                    However, if I come back to the evidence  
7       that we have given in saying that the regional director  
8       relies on a wide variety of sources for information,  
9       before making those decisions I think that makes, in my  
10      opinion, those decisions good decisions based on the  
11      best judgment that can be utilized of a wide variety of  
12      sources, because there is not any one person in that  
13      one person's bias being accounted for, there is a wide  
14      variety out there.

15                  Q. But isn't there a provincial or  
16       governmental bias introduced by setting a stated amount  
17       of timber to be removed in a period of time?

18                  A. I think that is the same all over.  
19       When we establish targets we establish a bias. And  
20       there is, for example, moose targets in wildlife  
21       management units. I believe there are also targets  
22       associated with the fisheries management plans, again I  
23       can be corrected, if...

24                  Q. But there is no wildlife management  
25       plan?

1                   A. There are targets established for  
2 those wildlife management units for moose though.

3                   Q. But the targets aren't established at  
4 the same level of persuasion, if you will, as the  
5 targets in the timber area?

6                   A. I wouldn't agree to that myself.

7                   Q. Okay. We are back to traceability.  
8 I suppose to some extent. But in terms of  
9 understanding how decisions are reached, would you not  
10 agree that it is easier to follow a  
11 qualitatively-linked decision process as opposed to a  
12 narrative process discretionary general relationships  
13 and effects?

14                  A. I suppose in terms of just making the  
15 decision, a strictly quantitative approach would be  
16 easier for a person to follow. That does not mean the  
17 decision would be good.

18                  In my own belief, I think the narrative  
19 approach, in the sense of extracting the number of  
20 opinions, some quantifiable some scientific, and  
21 utilizing those tools makes for better decisions, in my  
22 opinion.

23                  Q. And that is the way things are done  
24 at the moment in your Ministry in terms of timber  
25 management planning and wildlife impacts?

1                   A. Based on the evidence of Mr.  
2 Straight, because he is closer to the decision-maker,  
3 my understanding is that there is a wide variety of  
4 opinions, some quantifiable, on the table before those  
5 decisions are made.

6                   Q. And that is perfect?

7                   A. Oh, I never said that was perfect.

8                   Q. Well --

9                   A. I said that was better than  
10 strictly -- in my opinion, strictly a quantitative --

11                   Q. Your biologists are "comfortable"  
12 with the way things are going?

13                   MR. STRAIGHT: A. I didn't say they were  
14 comfortable necessarily with the way things are going.  
15 I said they were comfortable with their ability to be  
16 able to utilize the Timber Management Guidelines to  
17 provide moose habitat at the process. I have not seen  
18 any of them express any difficulty in being able to use  
19 that to provide moose habitat. Just a slight  
20 clarification.

21                   Q. Uh-huh. Now, I am not at all  
22 surprised that you would be satisfied with the way  
23 things are being done because if you weren't you would  
24 be changing them, and that only makes sense.

25                   But doesn't that introduce an aspect of

1 bias as to how you view alternatives?

2 A. Well, I think you will see how we  
3 deal with alternatives when you look at Panel 15 and  
4 you see how the specific -- you will see the results of  
5 utilizing that specific process that we have continued  
6 to refer to, the area of concern planning process.

7 Q. All right. Mr. Scott, you have told  
8 us about, in your view, the merits of the narrative  
9 concept. If you were to review a timber management  
10 plan, would you want to see a quantitative balancing of  
11 causes and effects and advantages and disadvantages, or  
12 a qualitative description of the pros and cons or both?

13 MR. SCOTT: A. I guess if I was  
14 reviewing the timber management plan I would like to  
15 see links to the objectives established for that timber  
16 management plan and ensure that the guidelines were  
17 followed and the pre-existing obligations were  
18 accounted for. That is how I would approach reviewing  
19 a plan.

20 Q. Now, I think I am the one who has  
21 missed it. Could you give me that again?

22 A. If I was reviewing the plan I would  
23 want to make sure that the pre-existing obligations  
24 that we had talked about in our evidence were accounted  
25 for, that we had followed guidelines, and that we

1 follow the process as we outlined in the Class EA.

2 Q. And the pre-existing obligations are  
3 quantitative obligations?

4 A. I believe we have outlined them in  
5 our decision-making arrow.

6 Q. So quantitative and others?

7 A. I believe so.

8 Q. Well, if you wish to challenge the  
9 merits of a specific proposal, would you prefer to  
10 challenge an explicit quantitative analysis or a  
11 narrative argument based on implicit professional  
12 judgment?

13 A. If I wish to challenge anything in  
14 the timber management plan, I would rather deal with a  
15 specific of what I was trying to challenge. If there  
16 was something out of whack, whether it was quantifiable  
17 or descriptive, I would challenge it.

18 Q. Now, the Class EA describes three  
19 types of management units for which a timber management  
20 plan can be prepared, I believe.

21 A. Yes, sir; forest management agreement  
22 units, company units and Crown management units.

23 Q. And how do they differ?

24 THE CHAIRMAN: Well, hold on, Mr.  
25 Armstrong. I think we are going to cut you off at the

1 pass on that one, because we spent considerable time to  
2 date dealing with those differences, and actually we  
3 may even cut you off for the night, in the sense that  
4 we are coming very close to 5:00 p.m., and one of the  
5 members of the panel has an obligation at five. So  
6 rather than start on a new area, this might be an  
7 appropriate time.

8 Could you advise the Board whereabouts  
9 you are in your cross-examination in terms of when you  
10 expect to be completed?

11 MR. ARMSTRONG: Could I beg the Board's  
12 indulgence to give that information at the outset of  
13 tomorrow morning?

14 THE CHAIRMAN: Very well.

15 Okay. I think we will adjourn now until  
16 8:30 tomorrow morning.

17 Thank you.

18 ---Whereupon the hearing adjourned at 5:00 p.m., to be  
19 reconvened on Thursday, February 9th, 1989,  
commencing at 8:30 a.m.

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